

16.02.2022
SL No.43
Court No.8
(gc)

FMAT 23 of 2022

**Mahajan Shaw
Vs.
Ashok Das & Ors.**

(Via Video Conference)

The appellant is not represented nor any accommodation is prayed for on behalf of the appellant. The appellant continued to remain absent even on the earlier occasion.

We have perused the impugned order. It appears from the impugned order that the learned Trial Judge refused to pass an ad-interim order of injunction on the ground that the plaintiff could not establish his rightful possession over the suit property.

Without commenting on the merits of the said order, we direct the learned Judge, Vth Bench, City Civil Court to decide the application as expeditiously as possible as it concerns essential supplies to which even a trespasser is entitled under the law. It is settled law that a trespasser is not liable to be evicted without due process of law. In ***Abhimanyu Mazumdar Vs. Superintending Engineer & Anr.*** reported at ***AIR 2011 Cal 64***, this Court has decided the right of a trespasser to get electricity connection.

The learned Trial Court is directed to decide the said matter taking into consideration the aforesaid decision and the law on this point.

The appellant shall be entitled to approach the Trial Court for early disposal of the injunction petition on the basis of this order.

With the aforesaid observation, the appeal being FMAT 23 of 2022 stands disposed of.

However, there shall be no order as to costs.

All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

(Ajoy Kumar Mukherjee, J.)

(Soumen Sen, J.)