

28.03.2022
SL No.12
Court No.8
(gc)

**FMAT 24 of 2022
With
CAN 1 of 2022**

**Sri Maharghya Mukherjee & Anr.
Vs.
Akhil Bharat Jai Guru Sampradaya & Ors.**

(Via Video Conference)

Mr. Supriyo Chattopadhyay,
Mr. S.L. Maiti,
...for the Appellants.
Mr. A. Dutta,
...for the Respondents.

The learned Counsel for the appellants submits that observations made by the learned Trial Judge in refusing to pass an ad-interim order of injunction in favour of the plaintiff is fatal and such observations may ultimately vacate the final disposal of the injunction application. It appears from the impugned order that the ad-interim order of injunction was refused on the ground that the plaintiff was expelled from the defendant No.1, Akhil Bharat Jai Guru Sampradaya, allegedly for maligning the Trustees and removing the certain legal documents of the said Sampradaya. The order of expulsion was approved unanimously by the Trust Board Members. This order of expulsion is under challenge.

We feel that the learned Trial Judge on the aforesaid facts declined to exercise its discretion in favour of the plaintiff as any relief at the ad-interim stage could

amount granting of entire relief in the suit. However, if it is established during the hearing of the injunction application that such expulsion is *void ab initio* or in violation of the rules and principles of natural justice, the Trial Court may pass appropriate orders at the time of final disposal of the injunction application.

The learned Counsel for the respondents submit that there has been gross suppression of material facts for which the injunction application is liable to be dismissed. However, we are not concerned with the merits of the injunction application. The injunction application has to be heard by the learned Trial Judge on merits and at this stage we do not find any reason to interfere with the discretion exercised by the learned Trial Judge in deciding the matter finally on merits.

With the aforesaid observation, the appeal being FMAT 24 of 2022 and the application being CAN 1 of 2022 stand disposed of.

However, there shall be no order as to costs.

The opposite parties shall file objection to the injunction application within two weeks from date. Reply thereto, if any, shall be filed within 10 days thereafter.

We request the learned Trial Judge to dispose of the injunction application as expeditiously as possible.

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.)