

03.02.2022
SL No.16
Court No.8
(gc)

**FMAT 30 of 2022
With
CAN 1 of 2022**

**Sadharan Brahmo Samaj & Ors.
Vs.
Supratim Chakraborty**

(Via Video Conference)

Mr. Deepak Kumar Basu,
Mr. Sayan Sinha,
Mr. Suman Kumar Mukherjee,
....for the Appellants.

This appeal is arising out of an order passed by the learned Judge, 12th Bench, City Civil Court on 13th January, 2022 in connection with an application filed by the plaintiff under Section 151 of the Code of Civil Procedure praying, *inter alia*, for stay of the election proceedings of Sadharan Brahmo Samaj. The grievance of the present appellants is that without service of the said application, an order of status quo regarding election proceeding of the appellant No.1 was passed for a period of three weeks from that date. The period of three weeks is going to expire today. The basis for passing the impugned order appears to be that the suit was earlier dismissed under Order 7 Rule 11 of the Code of Civil Procedure, however, by reason of the order passed by the Hon'ble High Court dated 23rd December, 2021 in FAT 203 of 2021, the Trial Court was directed to hear the application afresh. Before dismissal of the suit under Order 7 Rule 11

of the Code of Civil Procedure, the plaintiff was enjoying an order of injunction with regard to the declaration of the election results. We find that in view of the changed circumstances, the earlier order was revived by the learned Trial Court.

The learned Counsel for the appellants submits that by reason of the fact that the subject matter of the suit relates to the election for the year 2021, the suit has now become infructuous as there is no challenge thrown to the election proposed to be held for the subsequent periods. The learned Counsel further submits that consequent upon the rejection of plaint, the election results were declared, in fact, the plaintiff participated in the said election.

However, this is an issue that needs to be raised and decided by the learned Trial Court while considering whether the order of injunction shall be extended beyond the period of three weeks.

With the aforesaid observation, the appeal being FMAT 30 of 2022 and the application being CAN 1 of 2022 stand 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.)