

DL. September
22. 6, 2022

F.M.A. 3194 of 2015

Pradyut Ghosh & anr.

Vs.

Uttam Kumar Ghosh

The appellant is not represented, nor any accommodation is prayed on their behalf. On the earlier occasion also the parties were not represented and the matter was adjourned with the warning “last chance”. However, we propose to decide the question of admission of the appeal on the basis of the materials available on record.

The present appeal has arisen out of an order dated April 4, 2014 passed by the learned Civil Judge (Senior Division), First Court at Barasat, North 24-Parganas, in Title Suit No. 111 of 2014 in connection with an application filed by the plaintiff/respondent under Order XXXIX Rules 1 and 2 read with Section 151 of the Code of Civil Procedure.

The present suit has been filed for specific performance of an agreement for sale. The learned trial judge, upon arriving at a finding that the execution of the agreement is, prima facie, not disputed and the plaintiff having paid a sum of Rs. 5 lakh towards earnest money in terms of the agreement dated February 28, 2013, restrained the defendants/appellants from transferring and/or alienating the suit property till the disposal of the suit.

The discretion exercised by the learned trial judge being proper, we do not find any reason to interfere with the order passed by the trial court.

The appeal is, therefore, summarily dismissed under Order XLI Rule 11 of the Code of Civil Procedure.

However, we direct the learned trial judge to dispose of the suits being Title Suit No. 111 of 2014 as expeditiously as possible, preferably within one year, without granting any unnecessary adjournment to either of the parties.

In view of dismissal of the appeal, nothings remains to be decided in the application for stay filed under CAN 6751 OF 2014 and the same is also dismissed.

There will be no order as to costs.

The learned Registrar Administration (L & OM) of this court is requested to see that this order shall be communicated to the trial court within a period of two weeks from date.

(Soumen Sen, J.)

dns

(Uday Kumar, J.)