

Item- 129.	18-08-2022	FMA 663 of 2016 CAN 1 of 2015 (old CAN 10370 of 2015)
sg	Ct. 8	Sunita Gupta Versus M/s. Bhutaria Properties

The parties are not represented nor any accommodation is prayed for on their behalf. Even in the earlier occasions namely, on 31st June, 2022 and 11th July, 2022, the parties were not represented.

The appeal is arising out of an order passed by the learned Trial Court on 8th May, 2015 in connection with an application under Order 39 Rule 1 and 2 read with section 151 of the Code of Civil Procedure, praying, inter alia, for ad interim order of injunction.

In the said proceeding initially an ad interim order of injunction was passed and thereafter, the plaintiff filed an application for extension of the ad interim order of injunction under section 151 of the Code of Civil Procedure on 13th April, 2015. The said prayer was opposed by the defendant.

The learned Trial Judge, on the basis of the materials on record, arrived at a finding that the plaintiff could not establish its possession in respect of the suit property. If the plaintiff had already been dispossessed in violation of the order of the injunction, then the plaintiff had a remedy which did not appear to have been availed. The learned Trial Judge has recorded that there is a gulf of differences in between the forceful eviction already made and a threat of eviction for dispossession.

The matter was fixed by the learned Trial Court on 15th

June, 2015 for hearing of the injunction petition on merits.

However, the present status of the case as made available by the department shows that the suit was dismissed for default by the learned Trial Court. We are not aware whether the suit was restored.

In any event, we do not find any reason to interfere with the order passed by the learned Trial Court and the appeal and the connected application are dismissed. However, there shall be no order as to costs.

(Siddhartha Roy Chowdhury, J.)

(Soumen Sen, J.)