

11 31.3.2022
Sc Ct. no.8

FMAT 45 OF 2022
with
I.A. No. CAN 1 OF 2022

Sk. Sajahan & Anr.

Vs.

Kaji Maidul Islam & Ors.

Ms. Pompey Bose
Mr. Abhra Mukherjee
Mr. Anjan Banerjee
Mr. Sauradeep Dutta.

... For the Appellants/
Plaintiffs

Affidavit-of-service, filed on behalf of the appellants
is taken on record.

It appears from the affidavit-of-service that Kaji
Maidul Islam has refused to accept the notice. Insofar as
the other respondents are concerned, the track report
does not show receipt of the said notices.

In terms of our earlier order the Axis Bank Ltd. and
the State Bank of India has produced statements of
accounts for the period from January 2021 to February,
2022 in respect of Account No.916010014020330 (with
Axis Bank Ltd.) and Account No.37718358617 (with State
Bank of India). The said statements of accounts do not
reflect any transaction concerning Rs.35 lakh (Rupees
thirty five lakh) as mentioned in the Schedule to the
Deed.

The respondent no.1, inspite of notice, did not
appear.

On the basis of such disclosure, we are of the *prima facie* opinion that the plaintiffs are able to make out a *prima facie* case with regard to non-payment of consideration. Accordingly the respondents are restrained from dealing with, dispossessing of and/or changing the nature and character of the suit property till the disposal of the injunction application.

We have been informed that the respondents are disturbing the possession of the plaintiffs and complaints have been lodged with the local police station. In the event, the police authorities are not acting in terms of the complaints, the plaintiffs shall be entitled to approach appropriate Court for appropriate reliefs.

This order shall be immediately communicated to the respondents and to the learned trial Court. A copy of this order shall also be communicated to the Officer-in-Charge of the local Police Station for information and doing the needful.

The appeal and the application are disposed of.

There shall be no order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously on usual undertaking.

(Ajoy Kumar Mukherjee, J.)

(Soumen Sen, J.)