

25.11.2022
SL No.31
Court No.8
(gc)

FMAT 111 of 2015
CAN 1 of 2015 (Old No: CAN 1409 of 2015)

Shraboni Sarkar
Vs.
Sanjib Kr. Sarkar & Anr.

This matter appeared in the warning list on 16th November, 2022 with a clear indication that the appeal shall be transferred to the daily list on 21st November, 2022.

The appellant is not represented nor any accommodation is prayed for on behalf of the appellant, although, the appellant has sufficient knowledge and notice of the listing of this matter. This appeal was filed in or around February, 2015 but since then no attempt has been made to move this appeal or the connected application. The defect indicated by the Additional Stamp Reporter on 9th February, 2015 has not yet been removed.

The appeal is arising out of an order passed by the learned Xth Bench, City Civil Court at Calcutta on 23rd December, 2014 in connection with an application under Order 39 Rules 1 & 2 read with Section 151 of the Code of Civil Procedure. The learned Trial Judge refused to pass an ad-interim order of injunction on prima facie finding that there is no material on record to show that the plaintiff has any claim over the Shop Room-cum-Office at the suit premises. The discretion exercised by the learned

Trial Judge in refusing to pass ad-interim order does not call for any interference.

However, we dispose of the appeal and the application by directing the learned Judge, Xth Bench, City Civil Court at Calcutta to dispose of the Title Suit as expeditiously as possible without granting any adjournment to either of the parties unless it is unavoidable. In the event the injunction application is still pending, the same should be disposed of within three months from the date of communication of this order by the Office of the Registrar Administration (L&OM).

The Registrar Administration (L&OM) must ensure compliance of this order.

We make it clear that the learned Trial Judge shall not be influenced by the observation made by us in this order and shall decide the application and the suit, if are pending, on merits.

(Uday Kumar, J.)

(Soumen Sen, J.)