

DL. May 2,
22. 2022

F.M.A. 377 of 2019

Sri Ramesh Bhatt
Vs,
Sri Dipak Bhatt & ors.

The appellant is not represented, nor any accommodation is prayed for on his behalf, when the matter is called on.

The appeal is arising out of an order dated April 12, 2019 passed by the learned Judge In-charge, Eleventh Bench, City Civil Court at Calcutta, in connection with an application for injunction.

The plaintiff/appellant filed a suit for declaration and permanent injunction. The plaintiff and the defendants are the full-blooded brothers and they are looking after the business in the shop room. The plaintiff/appellant alleged that his father was carrying on the business under the name and style of "Navarang Printers" and was a tenant in respect of one shop room situated in the ground floor of Premises No. 1, Madan Street, Kolkata-700072 and that the father of the plaintiff died on September 29, 1982 and after his death, the landlord mutated the tenancy in respect of the said shop room in the name of the mother of the plaintiff. The defendants no. 1 and 2 were found to be misappropriated the fund of the business and were manipulating the accounts, the mother of the plaintiff got upset of such behaviour of the defendants no. 1 and 2 and on the request of the said defendants, the mother of the plaintiff allowed them temporarily to occupy the suit shop room and start their new business till they found an alternative accommodation. However,

taking advantage of such position, the defendants no. 1 and 2 tried to sublet a portion of the suit shop room. The mother of the plaintiff also wrote a letter to the landlord requesting him not to transfer the tenancy right to anybody without her written consent.

It was on such consideration the suit and the application for injunction was filed.

The learned trial judge, noticing the relationship between the parties and the fact that the business of the father was looked after by the parties, refused to pass any ad interim order of injunction. The injunction application was fixed for hearing on June 28, 2019.

The appeal was filed on April 18, 2019, but thereafter it was not pursued by the appellant. On the earlier occasion also, the appellant was not present. The consideration for which the ad interim injunction was refused cannot be said to be perverse. On such consideration, we do not find any reason to interfere with the order passed by the learned trial judge inasmuch as the scope to pass ad interim order of injunction has lost its force as the matter was fixed on June 28, 2019 for hearing of the injunction application.

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

In the event the injunction application is still pending, we request the learned Judge, Eleventh Bench, City Civil Court at Calcutta, to dispose of the injunction application as expeditiously as possible without granting any unnecessary adjournment to either of the parties.

There will be no order as to costs.

This order shall be communicated to the learned Judge, Eleventh Bench, City Civil Court at Calcutta, through the learned Registrar Administration (L & OM) of this court immediately.

dns

(Sugato Majumdar, J.)

(Soumen Sen, J.)