

22.12.2022
KC(4)

F.M.A. 838 of 2022
Subhendu Saha
-versus-
Sukumar Kundu and Ors.
With
CAN 1 of 2022

Mr. Supriya Ranjan Saha,
Mr. Suman Kumar Mukherjee.....For the appellant.

We formally admit the appeal.

We do not find any infirmity in the impugned judgment and order. The only difficulty that might arise from it is with regard to its implementation.

What are the terms and conditions of the tenancy agreement dated 23rd November, 2017? What business do they permit to be carried on in the subject premises? What business is actually being carried on?

Furthermore it is submitted that the respondents, armed with the impugned judgment and order, have stopped the business of the appellant and have also cut off electricity, water connections and padlocked the bathroom.

We are of the view that a Special Officer be appointed to visit the premises, inspect it and file a report before the learned court below in terms of the queries raised by our order read with the impugned judgment and order of the learned court below.

Ms. Shanti Das, Advocate, member Bar Association (Mobile No. 98314 71527) is appointed as Special Officer at a remuneration of 1200 G.M.s to be paid by the appellant.

The Special Officer is to file a report in the learned court below by 5th January, 2023.

Considering the above situation, on the application of the appellant/defendant, the learned trial judge shall prepone the returnable date of the application and upon due service of the cause papers upon the respondents proceed to consider the interim application upon hearing the respondents.

The impugned judgment and order of the learned court below is modified to the above extent.

The appeal (F.M.A. 838 of 2022) and the connected application (CAN 1 of 2022) are disposed of.

(I.P. MUKERJI, J.)

(BISWAROOP CHOWDHURY, J.)