

Item-15. 22-07-2022

FMA 2326 of 2014
CAN 1 of 2014 (old CAN 8302 of 2014)

^{sg} Ct. 8

Kalyan Chakroborty
Versus
Ashutosh Bhattacharya

Earlier the matter was adjourned at the instance of the appellant. The appellant is not represented nor any accommodation is prayed for on behalf of the appellant.

The appeal is arising out of an interim order dated 6th February, 2014 passed by the learned Civil Judge (Senior Division) at Sealdah in Title Suit No. 133 of 2013. Although the appeal was presented on 31st March, 2014, we do not find from record that any attempt was made to have the said application moved and heard. Eight years have gone by.

By the impugned order, the defendant was restrained to execute any conveyance of the developer's portion without the permission of the Court till the disposal of the suit. We find from the status report as made available by the department that the suit was dismissed for default on 18th June, 2014. There is no other record available to show that the suit was restored subsequently.

Be that as it may, we have gone through the order under appeal and we do not find any reason to interfere with the discretion exercised by the learned Trial Judge in favour of the plaintiff as non-granting of any such relief during the pendency of the suit would have caused greater hardship to the plaintiff. The plaintiff was also able to make out a prima facie case for granting

a relief in favour of the plaintiff.

The appeal, accordingly, stands dismissed. However, there shall be no order as to costs.

(Siddhartha Roy Chowdhury, J.)

(Soumen Sen, J.)