

05.07.2022
KC(11)

F.M.A.T. 248 of 2022
Bilkis Begum and Ors.
-versus-
Magnet Construction Private Limited and Ors.
with
CAN 1 of 2022

Mr. Partha Chakraborty,
Mr. Debayan Ghosh,
Ms. Sharmistha China.....For the appellants.

Mr. Haradhan Banerjee,
Mr. Nurul Haque,
Sk. Atrojal Haque.....For the respondents.

We admit the appeal. As a very short point is involved, we are in a position to dispose of it, dispensing with all formalities.

Learned counsel for both the parties are before us.

We observe on examination of the impugned ex-parte ad-interim order dated 17th June, 2022 that prima facie findings were made that the learned court below had territorial jurisdiction and that an order of injunction restraining the appellants/defendants from interfering with the construction work and possession of the respondents/plaintiffs was warranted. No reasons were given as to why the court thought that it had territorial jurisdiction or an order of injunction should be made. Only the facts were shortly narrated without entering into any prima facie finding.

It is, inter alia, submitted before us by learned counsel for the appellants that there was suppression of material facts in the suit. The respondents had suppressed the fact of the pending suit filed by the appellants against them in the learned court at Alipore and the various proceedings and interim orders passed in that suit.

For the reasons aforesaid, we dispose of this appeal (F.M.A.T. 248 of 2022) and the connected application (CAN 1 of 2022) by directing that the order dated 17th June, 2022 will only continue till 19th July, 2022.

This order is to be placed before the learned trial judge. Thereupon, the learned judge shall hear out the interim application at the 'Motion' stage in the presence of the appellants/defendants and thereafter consider continuance of the interim order dated 17th June, 2022. All questions, including those relating to the territorial jurisdiction of the court, the prayer of the appellants for transfer of the City Civil Court suit to Alipore and so on are kept open before the learned trial judge. We make it clear that we have not gone into the merits of the claim of the parties.

(I.P. MUKERJI, J.)

(AJAY KUMAR MUKHERJEE, J.)

