

25.11.2022
SL No.26
Court No.8
(gc)

FMAT 434 of 2014

**Y2K Computers Private Limited
Vs.
ICICI Bank Limited & 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 April, 2014 but since then no attempt has been made to move this appeal. The defects have also not been removed.

The appeal is arising out of an order passed by the learned Judge, VIIth Bench, City Civil Court at Calcutta in connection with an application under Order 39 Rule 1 & 2 read with Section 151 of the Code of Civil Procedure filed by the plaintiff praying, *inter alia*, for temporary injunction against the ICICI Bank.

We have perused the order under appeal. The learned Trial Judge on consideration of the materials on record refused to pass any ad-interim order of injunction. The learned Trial Judge refused to grant an ex parte ad-

interim order of injunction having noticed that deed of mortgage was not created within the periods stipulated under the facility agreement. The facility agreement is dated 21.07.08. No attempt was made by the appellant to move this appeal. This appeal may have been infructuous by the passage of time. The injunction application must have been disposed of in the meantime. Moreover, we find that the defects have not been cured.

On such consideration, the appeal stands dismissed.

However, there shall be no order as to costs.

However, we make it clear that our observation shall not influence the learned Trial Judge in disposing of the suit on merits. In the event the injunction application is pending, we direct the learned Trial Judge to dispose of the injunction application as well as the suit as expeditiously as possible without granting any adjournment to either of the parties unless it is unavoidable.

This order shall be communicated to the learned Judge, VIIth Bench, City Civil Court at Calcutta by the Registrar Administration (L&OM) for information and doing the needful.

(Uday Kumar, J.)

(Soumen Sen, J.)