

14.02.2022
SL No.18
Court No.8
(gc)

**FMA 80 of 2022
With
CAN 1 of 2021**

**Anwar Hussain
Vs.
Amanullah Ansari & Ors.**

(Via Video Conference)

Mr. Md. N. Rahber,
Mr. Anjan Mehbub,
Md. Jawwad
.....for the Appellant.
Mr. Utpal Majumdar,
Mr. Dwaipayan Ghosh,
...for the Respondents.

In a suit for declaration and injunction, the plaintiff claimed to be the developer filed an application for injunction on the basis of two unstamped and unregistered agreements. It is not in dispute that the agreements were of 2006 substituted by a memo of agreement on 30th March, 2016. Curiously, the plaintiff filed a declaratory suit without praying for all reliefs that the plaintiff is required to make under Section 34 of the Specific Relief Act. The declaratory relief cannot be granted without there being an execution of the sale deeds in his favour. Section 34 of the Specific Relief Act makes it clear that no Court shall make any such declaration where the plaintiff, being able to seek further relief than a mere declaration of title, omits to do so. This was the reason apart from conduct of the appellant which was taken into consideration in refusing to pass an order of temporary injunction. The discretion exercised by the

Trial Court is based on sound legal principle and does not call for any interference.

Accordingly, the appeal being FMA 80 of 2022 and the application being CAN 1 of 2021 stands dismissed.

However, there shall be no order as to costs.

All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

(Ajoy Kumar Mukherjee, J.)

(Soumen Sen, J.)