

25.07.2022
KC(11)

F.M.A.T. 272 of 2022
Kalyani Sarkar and Anr.
-versus-
Prasid Ranjan Dasgupta and Ors.
With
CAN 1 of 2022

Mr. Sandip Ghose,
Mr. Deep Narayan Mukherjee,
Mr. Debayan Ghosh.....For the appellants.

We formally admit the appeal.

This is an appeal from a judgment and order dated 23rd June, 2022 of the learned court below refusing an order of injunction sought by the appellants ex-parte against the respondents.

The appellants prayed for stoppage of construction in and commercial use of the premises.

There are practically no reasons in the impugned judgment and order. The reason which was sought to have been advanced in the last paragraph of the judgment and order is extremely vague and not comprehensible at all.

We find that the returnable date of the said injunction application before the learned court below is today.

Mr. Ghose, learned advocate for the appellants submits that a prayer for adjournment has been made in that court.

Considering the submissions made before us today, we think it fit and proper that the learned court below hears out the interim application, at the 'Motion' stage, as early as possible not later than one week from today afresh and passes a reasoned order upon hearing the parties. The learned court below shall not be influenced by any observation or prima facie finding made in its impugned order dated 23rd June, 2022.

Till the learned court below is able to come to a decision whether to grant injunction or to refuse it, the respondents shall desist from making any further construction in the premises in question and shall not change the status quo with regard to ownership or possession of the said premises. The respondents shall also not create any third party interest.

The appeal (F.M.A.T. 272 of 2022) and the connected application (CAN 1 of 2022) are disposed of.

All parties and the learned judge shall act on the basis of a server copy of this order.

(I.P. MUKERJI, J.)

(SUBHENDU SAMANTA, J.)