

DL. March 2,
14. 2022

F.M.A. 76 of 2022
Gargi Banerjee
Vs.
Tamohar Mukherjee & ors.

Mr. Amrita Lal Dhar,
...for the appellant.

Mr. Sukanto Ghosh,
...for the respondent no. 1.

Re: CAN 1 of 2021 (injunction)
filed on September 28, 2021;
And
CAN 2 of 2022 (extension)
filed on January 17, 2022.

Pursuant to our order dated February 16, 2022, the respondent no. 1, namely, Sri Tamohar Mukherjee, is personally present before us. An affidavit in opposition is filed on behalf of the respondent no. 1, which is taken on record.

The respondent no. 2 is not represented, nor any accommodation is prayed for on its behalf.

The respondent no. 1 has stated on oath that he has not executed the power of attorney, on the basis of which the respondent no. 2 is claiming title in the suit property. The respondent no. 1 also stated that he informed about such forged power of attorney to the Additional District Sub-Registrar at Alipore, on February 24, 2022 and that he lodged a complaint with the Deputy Commissioner of Police, Detective Department, Lalbazar on February 25, 2022 in this regard.

The appellant, respondents and the proforma respondents are the co-sharers of the property in question. In view of a clear assertion made on behalf of the respondent no. 1 on oath that

he has not executed the power of attorney, on the basis of which title in respect of the suit property has been claimed by the respondent no. 2, there shall be an order of injunction restraining the respondent no. 2 to act upon the alleged power of attorney and to alienate, encumber, transfer and/or to create any third party interest in respect of the suit property till disposal of the suit.

We make it clear that this order shall not be binding on any creditor and that if any proceeding under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act is initiated, it would be open to the parties to take appropriate steps in such proceeding.

In view of the complaint being lodged with the Deputy Commissioner of Police, Detective Department, Lalbazar, we direct the Deputy Commissioner of Police to investigate into the matter treating the said complaint as first information report and take appropriate steps in accordance with law without any further delay.

The parties shall communicate this order to the Deputy Commissioner of Police, Detective Department, Lalbazar, for information and doing the needful.

In view of the restraint order passed, as above, nothing remains in the application filed before the trial court under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure and the same stands disposed of.

With the aforesaid observations, the appeal and the connected applications stand disposed of.

There will be no order as to costs.

Photostat certified copy of this order, if applied for, will

be made available to the applicant within a week from the date of putting in the requisites.

(Soumen Sen, J.)

dns

(Ajoy Kumar Mukherjee, J.)