

DL. January
18. 31, 2022

Through Video Conference

F.M.A.T 595 of 2021

Gargi Banerjee

Vs.

Tamohar Mukherjee & ors.

Mr. Amrit Lal Dhar,

...for the appellant.

We have heard the learned advocate appearing on behalf of the appellant.

The appellant is aggrieved by the order of refusal to grant an ex parte ad interim order restraining the defendants/respondents from alienating and/or creating any third party interest in respect of the property in question.

The learned trial judge has refused to pass an ex parte ad interim order of injunction on the ground that the power of attorney, which is claimed to be forged, has been registered and that a registered instrument also bears a presumption of genuineness. Moreover, the suit property has been mortgaged with a financial institution. The order was passed on September 22, 2021.

We have been informed that the matter has now been fixed for the purpose of consideration in the month of May 2022. We are not aware whether the defendants have been served with the notice as directed by the trial court and whether the injunction petition is, otherwise, ready for hearing. In the event, the injunction petition is, otherwise, ready for hearing. the learned trial judge is requested to dispose of the same by May 6, 2022 without granting

any adjournment to either of the parties. the learned trial judge shall take up the hearing maintaining the covid protocol. .

We make it clear that we have not gone into the merits of the matter and the learned trial judge shall decide the injunction petition on merits without being influenced of his earlier order or any of the observations made by us in this order.

With the aforesaid observations, the appeal is disposed of even at the admission stage.

In view of disposal of the appeal, nothing remains in the application for injunction filed under CAN 1 of 2021 and the same is also disposed of.

There will be no order as to costs.

(Soumen Sen, J.)

dns

(Ajoy Kumar Mukherjee, J.)