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22-03-2022

FMA 899 of 2019
CAN 1 of 2019 (old CAN 8263 of 2019)

Ct. 8

M/s. Development & Builders Pvt. Ltd.
Versus
Tarakeshwar Singh

(Through Video Conference)

Mr. Siddhartha Lahiri, Adv.
Mr. Ashok Gupta, Adv.
Mr. Sailesh Kumar Gupta, Adv.
...for the appellant

Mr. Raj Mohan Chattaraj, Adv.
Mr. Sudhakar Thakur, Adv.
Mr. Sourav Mondal, Adv.
...for the opposite party

In view of the fact that interim order passed by the learned Trial Court has been continuing since 15th July, 2019, we do not propose to disturb the said interim order at this stage. Since we are of the view that the defendant whose status is required to be decided in the suit filed by the appellant for eviction of the defendant from the suit premises, the right to enjoy the property during the pendency of the eviction suit by the defendant/tenant should not be disturbed. However, the tenancy agreement does not contain any specific words for car parking and the common passage cannot be utilized for car parking.

The interim order is modified only to the extent that the respondent shall not be permitted to park his car on the common passage till the disposal of the suit. The modification of the impugned order is only to the aforesaid extent.

We have been informed that the defendant has filed an application for acceptance of the written statement in order to

expedite the suit, we direct the learned Trial Court to accept the written statement on the adjourned date and on the same date itself to pass peremptory order with regard to procedural matter in order to make the suit ready for hearing.

We would request the learned Trial Court to expedite the trial and conclude the trial as expeditiously as possible, preferably within a period of one year from the date of framing of issues without granting any unnecessary adjournment to either of the parties unless it is unavoidable.

We also take note of the fact that the tenancy agreement does not mention about the car parking and no rent is paid for parking of the car in the suit premises.

The appeal being FMA 899 of 2019 and the application being CAN 1 of 2019 (old CAN 8263 of 2019) are, accordingly, disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Ajoy Kumar Mukherjee, J.)

(Soumen Sen, J.)