

1 4.2.2022

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
(COMMERCIAL DIVISION)**

**F.M.A.T. 712 of 2021
With
CAN 1 of 2021**

**Mr. Manoj Jha
Vs.
M/s. Prowess International Private Limited & Anr.**

**Mr. Samrat Chowdhury
Ms. Ranjana Seal
Mr. S. Dubey For the Appellant.**

Mr. A.K. Shrivastava ... for the Respondents.

Re: CAN 1 of 2021

We admit the appeal.

As the point involved is very short, we propose to hear it out dispensing with all formalities.

This appeal from an ex-parte ad interim order dated 7th October, 2021, refusing an injunction on the respondent no.1 to part with its fixed asset.

The claim of the appellant is monetary, of a sum of Rs.32,00500/-.

S.D. We find from the impugned judgement and order that the interim application was made returnable before the learned court below on 7th December, 2021 and that this appeal was filed as late as on 24th November, 2021. It was mentioned for enlistment on behalf of the appellant on 17th January, 2022.

Considering all these circumstances, we are of the

view that the case of the appellant/petitioner in the said application should be considered by the learned court below in the presence of the respondents afresh on the returnable date.

We find no ground to interfere in the matter to assess whether the interim order was rightly or wrongly refused at the ex parte interim stage.

Any observation or tentative finding made in the impugned order dated 17th October, 2021 will not bind the learned court below in considering the interim application on the returnable date.

Upon being approached by the appellant/petitioner, the learned court below will refix the returnable date of the interim application as early as possible not later than two weeks from the date of such request.

With the above observations, this appeal and the connected application (CAN 1 of 2021) are disposed of.

(I.P. Mukerji, J.)

(Aniruddha Roy, J.)

