

21.11.2022
KC(12)

F.M.A.T. 340 of 2022
Central Plaza Owners' Association
-versus-
Faizal Rahman and Ors.
With
CAN 1 of 2022

Mr. Sounak Bhattacharya,
Mr. Debanjan Das.....For the appellant.

Mr. Rahul Karmakar,
Mr. Sounak Mukherjee.....For the respondents.

We admit the appeal.

Dispensing with all formalities we have heard it
out today. It is disposed of by the following order.

The suit by the appellant/plaintiff complains of
infraction of easement rights by the construction
undertaken by the respondents/defendants. An order of
injunction was refused by the learned court below.
Hence, the appeal.

On 23rd September, 2022 we passed an order
directing the respondents to maintain status quo
regarding alleged encroachment by the respondents of
the appellant's property. We also directed status quo
with regard to possession of the suit property.

The impugned order was ex parte.

In the facts of the case, a proper interim order could only have been passed in the presence of the respondents/defendants.

Accordingly the matter is remitted to the learned court below to reconsider the interim application and to pass a reasoned order upon hearing the parties within eight weeks from date.

Our interim order dated 23rd September, 2022 shall continue until the disposal of the interim application by the learned court below. The order to be passed by the said court would then supersede our order.

This will, however, not prevent the learned court below from passing further interim order during pendency of the interim application. All questions are kept open before the learned court below.

The appeal (F.M.A.T. 340 of 2022) and the connected application (CAN 1 of 2022) are disposed of.

(I.P. MUKERJI, J.)

(BISWAROOP CHOWDHURY, J.)

