

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE**

PRESENT:

THE HON'BLE JUSTICE TIRTHANKAR GHOSH

CRR 2915 of 2019

Brescon Partners LLP

-vs.-

The State of West Bengal & Anr.

For the petitioner	:	Mr. S.N. Mookherjee, Sr. Adv., Mr. Ayan Bhattacharya Mr. Sounak Mitra Mr. Zulfiqar Ali Al Quaderi Mr. Prattya Khan
For the State	:	Mr. S.G. Mukherjee, Ld. PP Mr. Madhusudan Sur, Ld. APP Mr. Anwar Hossain Ms. Sreyashee Biswas
Heard on	:	02.07.2021, 06.07.2021, 12.07.2021, 19.07.2021, 26.07.2021, 28.07.2021, 30.07.2021, 02.08.2021, 06.08.2021, 13.08.2021, 27.08.2021, 14.09.2021, 29.11.2021, 24.12.2021
Judgment on	:	24.03.2022

Tirthankar Ghosh, J:-

The subject matter of the revisional application relates to the order dated 17th August, 2019 passed by the learned Chief Judicial Magistrate, Alipore, in connection with C.G.R. Case No. 725 of 2019 arising out of Ballygunge Police

Station Case No. 27 of 2019 dated 01.03.2019. By the said order the learned Magistrate was pleased to restrain from transferring property being 14A and 15A Louden Star, 21 B, Dr. U.N. Brahmachari Street, Kolkata-700016 to any other person until further orders.

In view of the Hon'ble High Court being in seisin of C.S Case No. 103 of 2019 and an order dated 26th June, 2019 still subsisting wherein it has been directed as follows:

“Considering the facts of the case, and the materials on record, I find that the plaintiffs have made out a prima facie case and the balance of convenience also lies in their favour to obtain an ex parte interim order of protection in respect of the said flat. Accordingly, there shall be an ad interim order in terms of prayer (d) of the Notice of Motion till July 5, 2019.”

The said interim order was extended from time to time, and is still in force.

Having regard to the fact that the relationship with the aforesaid property with the subject matter of the case was established because of involvement of Ashok Kumar Agarwal and or his entities and the same subsequently being nominated in favour of the present petitioner (being Brescon Partners LLP), I am of the opinion that as the Civil Court is in seisin of the matter and Nirmal Kumar Gangwal having been exonerated from the proceedings, the said order cannot be sustained.

Accordingly, the order dated 17th August, 2019 passed by the learned Chief Judicial Magistrate, Alipore, in respect of restraining the property being 14A and 15A Louden Star, 21 B, Dr. U.N. Brahmachari Street, Kolkata-700016 is hereby set aside.

Thus, CRR 2915 of 2019 is allowed.

Pending application, if any, is consequently disposed of.

Interim order, if any, is hereby made absolute.

All parties shall act on the server copy of this judgment duly downloaded from the official website of this Court.

Urgent Xerox certified photocopy of this judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

(Tirthankar Ghosh, J.)