

03.04.2023
KC(3)

F.M.A.T. 71 of 2023
Spencer's Retail Limited
-versus-
Geetha Jorge @ Geetha George and Anr.
With
CAN 1 of 2023

Mr. Abhrajit Mitra, Sr. Adv.,
Mr. Biswajit Kumar,
Mr. S. Bhattacharya,
Mr. Soumavo Ghoshe,
Mr. R. Ganguly.....For the appellant.

Mr. Nilanjan Bhattacharjee,
Mr. Sugata Mukhopadhyay,
Mr. Anindya Basak,
Mr. Abhilash Chatterjee.....For the respondents.

We formally admit the appeal. We are in a position to dispose of it dispensing with all formalities.

We find that the impugned interim order was made ex parte. The learned court below is yet to consider the merits of the application upon hearing the parties.

It would serve the ends of justice if the application was heard out in the presence of the parties, by re-fixing the returnable date within April, 2023, from the "Motion" stage within 3 months of communication of this order.

We order accordingly.

We direct the appellant/plaintiff to make an appropriate application before the learned court below by 18th April, 2023 for this purpose.

The interim order passed by us in this appeal on 27th February, 2023 extended on 15th March, 2023, 22nd March, 2023 and 30th March, 2023 shall continue till the learned court hears out the application.

The interim order/award passed by the learned arbitrator shall not be enforced.

All questions are kept open before the learned court below including the power to vary our interim order on consideration of the prima facie case of the parties and other factors.

The appeal and the application are disposed of.

(I.P. MUKERJI, J.)

(BISWAROOP CHOWDHURY, J.)