

19.05.2023
KC(8)

F.M.A. 192 of 2023
Sk Rahim
-versus-
Basiruddin Khan and Ors.
With
CAN No. 1 of 2023

Mr. Arjun Samanta.....For the appellant.

Mr. Mahibur Rahman.....For the respondent
no. 1.

Dispensing with all formalities we have proposed
to hear out the appeal.

The suit before the learned court below is by one
tenant against another under the same landlord. The
allegation of the appellant/plaintiff against the
respondent/defendant is that he has encroached his
portion and causing disturbance.

At the stage before filing of the written objection
the learned judge refused the order of injunction, after
having heard both sides.

We think that the application should be heard out
threadbare before the learned trial court after exchange
of affidavits as early as possible preferably by 31st July,
2023.

In the meantime, we appoint Mr. Udayan
Chakraborty, learned advocate, member Bar Library
Club and Mr. Dwarakanath Chattopadhyay, advocate,
member Bar Association (m: 98305 63208) as Joint
Special Officers at an initial remuneration of 1500 and

600 G.M.s respectively to be borne by the parties equally to visit the premises and do the following acts:

- (i) Talk to the landlord and obtain details of the area demised to each of the parties, along with a plan or map,
- (ii) Inspect the demised areas and ascertain whether each of the parties is restricted to the demised area or there is any encroachment by them.

The Joint Special Officers will file a report before the learned court below by 9th June, 2023 circulating copies thereof to the parties.

The visit of the Joint Special Officers shall be carefully recorded in minutes to be maintained by them and to be annexed to the report.

The parties shall maintain status quo regarding possession and dealing with the property in accordance with their possession as found by the Joint Special Officers and incorporated in the minutes and the report until disposal of the interim application or until further order of the learned court below, whichever is earlier.

The appeal and the connected application are disposed of.

(I.P. MUKERJI, J.)

(BISWAROOP CHOWDHURY, J.)

