

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION**

**F.M.A. 579 of 2021
With
CAN 1 of 2021**

**Juliet Gomes and Ors.
Vs.
Kahkakashan Bano**

**Mr. Rishad Medora
Ms. Kabita Mukherjee
Mr. Manas Dasgupta ... For the Appellants.**

**Mr. S.P. Chattopadhyay
Mr. Arjun Samanta ... For the Respondent.**

Re: CAN 1 of 2021

We formally admit this appeal.

After hearing learned counsel for the parties, we are in a position to dispose of this appeal and the connected application after dispensing with all formalities.

The impugned judgement and order was passed by the learned court below on 22nd February, 2021. The order was ad-interim and ex-parte. The learned court refused to pass an order of injunction restraining the respondent/defendant from interfering with the possession of the appellant/plaintiff in the suit. The application upon service was made returnable before the learned court on 18th March, 2021. It appears from the records that this appeal was filed on or about 22nd March, 2021.

S.D.

The execution was initially stayed by this court for a limited period and thereafter the order was extended from time to time.

It was recorded by us on 21st December, 2022 that those stay orders had expired long ago and the execution case would come up before the learned court below on 19th January, 2023. An assurance of learned counsel for the respondent was recorded that in case this court was unable to take up the stay application before the next date fixed for execution ie. 19th January, 2023 his client would take no steps in those proceedings.

Today the appeal and the stay application have come up before us for consideration. Learned counsel for the respondent submits that his client be permitted to execute the decree forthwith.

We are of the opinion that since for such a long time execution has not taken place, with limited stay of executed the interim application before the learned trial judge should be expedited.

We request the learned trial judge to hear out the interim application upon notice to and hearing the respondent within six weeks of communication of this order.

The respondent shall continue to stay her hands with regard to execution of the decree for a period of eight weeks from date or until further orders to be passed by

the learned court below.

All points are kept open before the learned court below.

The appeal (FMA 579 of 2021) and the connected application (CAN 1 of 2021) are disposed of.

(I.P. Mukerji, J.)

(Biswaroop Chowdhury, J.)

