

19.07.2023
Court No.13
Item No.4
AP

FMA 394 of 2023
With
IA No.: CAN 1 of 2023

Nishant Gupta & Anr.
Versus
Sri Sri Academy & Ors.

Mr. Prabhat Kumar Shrivastava
Mr. Arif Ali

...For the appellants.

Mr. Reetobroto Mitra,
Mr. Arindam Guha,
Mr. Shuvasish Sengupta,
Ms. Arpita Dey

... For the respondent Nos.1 to 3.

1. The appellants are aggrieved by an order dated 13th March, 2023 passed by the learned Judge, Bench- XII, City Civil Court at Calcutta in Title Suit No.1706 of 2022.

2. By the impugned order, an ex parte ad interim order dated 16th August, 2022 restraining the school from increasing fees for the academic session 2022 – 2023 has been vacated.

3. Counsel for the parties have addressed this Court, on the provisions of the Right to Education Act, 2009, the decision of the Supreme Court in the case of **Islamic Academy of Education and Anr. Vs. State of Karnataka and Ors.** reported in **(2003) 6 SCC 697** particularly paragraph 7 thereof and the West Bengal Right of Children to Free and Compulsory Education Rules, 2012 framed under the power conferred by Sub-section 1 of

Section 38 of the Right of Children to Free and Compulsory Education Act, 2009 have been argued.

4. Learned counsel for the appellants submits that the issues raised before this Court today have not been raised in the Court below. There are other subsequent events, which the appellants want to rely upon.

5. In these circumstances, FMA 394 of 2023 shall stand disposed of granting liberty to the appellants to file a comprehensive application afresh under Order 39 Rule 1 & 2 in the Court below. The prayers of the appellants for interim relief shall be heard afresh.

6. The observations made by the Court below in the impugned orders shall not stand in the way of the Court below taking a different view if so deemed necessary, than the one already taken after hearing both the sides.

7. There shall be no ex parte orders in the matter.

8. There shall be no order as to costs.

9. In view of the disposal of the FMA 394 of 2023, connected applications, if any, shall also stand disposed of.

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

(Rajasekhar Mantha, J.)

(Supratim Bhattacharya, J.)