

06-09-2023
ct no. 13
sl. no. 3
sp

**F. M. A. No. 485 of 2023
With
CAN 1 of 2023**

**Uday Prakash Singh & Ors.
-Versus-
Shree Sitaram Charity Trust & Ors.**

Mr. Pranit Bag,
Mr. Debdatta Saha,
Mr. Subhamay Dewanji

...for the appellants.

Mr. Chayan Gupta,
Mr. Souradeep Banerjee,
Mr. A. Agarwalla,
Ms. D. Mukherjee

... for the respondents.

1. Affidavit of service filed in Court today is taken on record.
2. The instant appeal is directed against an order dated April 25, 2022 passed by the learned 7th Bench of the City Civil Court at Calcutta in T.S. No. 775 of 2023. By the impugned order, the appellants/plaintiffs' prayer for an interim order under Order 39 Rules 1 and 2 read with Section 151 of the CPC has been declined.
3. The plaintiffs have prayed for a declaration that the defendants/respondents cannot evict or oust the plaintiffs without the due process of law. Permanent injunction has also been sought.
4. Prior thereto, the respondents/landlords have filed suit no. 394 of 1997 in the Ordinary Original Civil Jurisdiction of this Court against

the appellants seeking a decree for khas and vacant possession of the same suit property. There are other reliefs also sought.

5. The parties to the suits are the same and/or substantially similar. The subject matter is the same.
6. This Court is of the view that the interest of justice would be served if the said later suit pending before the 7th Bench of the City Civil Court at Calcutta being T.S. No. 775 of 2023 filed by the appellants is transferred to this Court in its Ordinary Original Civil Jurisdiction under the provisions of Section 24 of the Code of Civil Procedure and/or Clause 13 of the Letters Patent, for being heard analogously with the said Suit no. 394 of 1997.
7. The refusal of interim relief by the Court below shall not stand in the way of parties to seek such reliefs or other lawful reliefs before the High Court in the said two suits.
8. With the aforesaid orders, FMA 485 of 2023 shall stand disposed of.
9. In that view of the matter, CAN 1 of 2023 shall also stand disposed of.
10. There shall be no order as to costs.

11. 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.)