

24.01.2023
KC(3)

F.M.A. 1275 of 2021
Sayandip Dhar
-versus-
Himesh Chandra and Ors.
With
CAN 1 of 2021
With
CAN 2 of 2021

Mr. Saptangshu Basu, Sr. Adv.,
Mr. Arup Nath Bhattacharya,
Ms. Mrinalini Majumdar,
Mr. Snehasish Dey,
Mr. Arya Bhattacharya,
Ms. Saolini Bose.....For the appellant.

Mr. Pratip Mukherjee,
Mr. Rahul Agarwal,
Mr. Arpit Agarwal.....For the respondent
nos. 1 and 2.

Mr. Saikat Basu,
Mr. Somnath Ghoshal.....For the respondent
no. 3.

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

This appeal is by an intending purchaser/plaintiff
before the learned court below seeking a decree of
specific performance of an agreement between himself
and the respondents/defendants. The order of
injunction sought before the learned court below was
restraint on the respondents/defendants from
interfering with the possession of the appellant/
plaintiff.

Now, the appellant/plaintiff claims to be in possession of the property by virtue of the said agreement for sale. According to the respondents, the appellant's possession is founded on an independent agreement of licensor and licensee between the parties.

The fact of the matter is that the appellant is in possession of the property.

We think that the most just order at this point of time would be to expedite the suit before the learned court below.

We direct that the suit be tried and determined by 31st December, 2023. Either of the parties shall make an appropriate application before the learned court below to expedite the suit by seeking direction for early filing of written statement, early discovery of documents, inspection thereof etc.

For the time being, the appellant shall be entitled to retain possession of the subject property. Whether the appellant is entitled to retain possession of the subject property, may be determined in the instant suit or in any other proceeding which the respondents may take out against him. Continuance of possession of the appellant will depend on the outcome or the orders to be passed in those proceedings. That point is kept open.

Whether the appellant will be required to pay any occupation charges, may be decided by the learned

court below on an appropriate application made by the respondents.

The appeal (F.M.A. 1275 of 2021) and the connected applications (CAN 1 of 2021 and CAN 2 of 2021) are disposed of.

(I.P. MUKERJI, J.)

(BISWAROOP CHOWDHURY, J.)