

07.08.2023
SL No.2
Court No.8
(gc)

**FMAT 331 of 2023
CAN 1 of 2023**

**West Bengal Housing Board & Anr.
Vs.
Rabiya Khatun & Ors.**

Mr. Amit Kumar Nag,
Mr. Partha Banerjee,
...for the Appellants.
Mr. Tapash Kr. Bhattacharya,
Mr. Aviroop Bhattacharya,
...for the Respondents.

1. We have heard the learned Counsel for the parties.
2. The plaintiffs/respondents are enjoying ad-interim order of injunction since 15th May, 2014 by way of status quo in respect of the property against the defendant Nos.1 and 2. The only grievance of the appellants appears to be that the interim-order was extended without considering the objections raised in the affidavit-in-opposition which, *inter alia*, include non-service of writ of summons.
3. Be that as it may, we are not inclined to interfere with the order passed by the learned Civil Judge (Sr. Divn.), 1st Court, Barasat on 15th June, 2023 since it appears that the ad-interim order of injunction was continuing since 15th May,

2014 by which the plaintiffs and the defendant Nos.1 and 2 have been directed to maintain status quo in respect of the suit property.

4. However, having regard to the fact that the written objection was filed opposing the extension of the interim order, it was necessary for the learned Civil Judge to decide the quality of the objection before extending the ad-interim order of injunction till 15th January, 2024.
5. Under such circumstances, we would request the learned Civil Judge, subject to the convenience of the learned Court to prepone the date of hearing of the injunction application and, if possible, to dispose of the injunction application on or before 15th January, 2024.
6. We have been informed that pleadings are complete. In the event objection has not been filed, the plaintiffs shall be entitled to file reply to the written objection within two weeks from date and the learned Civil Judge shall, if possible, and subject to the convenience of the Bench, fix a suitable date for disposal of the injunction application on merits.

7. A copy of the memorandum of appeal and the stay petition shall be served upon Mr. Tapash Kr. Bhattacharya, learned Counsel representing the respondents/plaintiffs in course of the day and a Vakalatnama shall be filed on behalf of the respondents/plaintiffs by tomorrow, i.e. 8th August, 2023.
8. We make it clear that we have not gone into the merits of the matter and the learned Trial Judge shall decide the matter independent of the observation made by this Court.
9. With the aforesaid observation, the appeal and the application stand disposed of.
10. However, there shall be no order as to costs.
11. Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Uday Kumar, J.)

(Soumen Sen, J.)