

24.02.2023
KC(1)

F.M.A.T. 470 of 2022
Kanta Kayan and Anr.
-versus-
Murari Kayan and Ors.
With
CAN 1 of 2022

Mr. Dwaipayan Basu Mallick,
Mr. Rahul Kumar Singh.....For the appellants.

Mr. Bolarko Sen,
Mr. Anurag Bagoria.....For the respondent
nos. 1, 2 and 3.

This appeal and the connected application are appearing in our list as “To Be Mentioned” for the purpose of consideration whether the interim order ought to be extended.

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

The subject premises is shop room no. 42, situated at 16, Basantalal Murarka Road, Kolkata-7 (203/1, Mahatma Gandhi Road, Kolkata-7).

The premises is tenanted. The respondent no. 4 is the landlord who is not appearing.

The dispute between the appellants and the respondent nos. 1, 2 and 3 is with regard to the tenancy and the business carried on from the said shop room.

The predecessor-in-interest of the said parties was the original tenant.

The grievance of the appellants, being the widow and the minor child of the original tenant, is that the widow has been ousted from the subject premises and from the business.

It is contended on behalf of the respondent nos. 1, 2 and 3 that the appellants are not in possession of the shop room. Admittedly, the appellant no. 1's husband, the predecessor-in-interest of the parties carried on business from the said shop room.

On the above prima facie case as an interim order in supersession of our interim order dated 17th February, 2023 we direct that the respondents nos. 1, 2 and 3 shall not surrender the tenancy to the landlord. Neither shall they create any third party interest as far as the tenancy in or the business of the shop room is concerned.

Any party will be at liberty to make an appropriate application before the court below for running of the business which would include directions for egress and ingress of the appellant no. 1 into the shop room and also for supervision of the business and verification of accounts.

We request the learned court below to expedite hearing of the suit, on an appropriate application being made by any party so that the suit is decreed or

disposed of within one year from the date of communication of this order.

This interim order would be subject to any interim order in supersession or in variation thereof which may be passed by the learned court below on change of circumstances.

This order would also not prevent the landlord from taking any action with regard to the subject premises and is confined to the dispute between the parties herein.

The appeal and the application are disposed of.

(I.P. MUKERJI, J.)

(BISWAROOP CHOWDHURY, J.)