

16.04.2024
Court No. 3
S/L. No. 13
Sourav/
Suvayan

**FMA 601 of 2023
With
CAN 1 of 2023**

**Vishnu Kumar Murarka H.U.F
Vs.
Smt. Sarita Soni & Ors.**

*Mr. Debrup Bhattacharya
Mr. Deepak Kr. Singh
Mr. Anubhav Singh*

... for the appellant.

*Mr. Rahul Karmakar
Mr. Rahul Singh*

... for the respondents.

1. Heard learned Counsel for the parties.
2. In this appeal, the Order No. 02 dated June 2, 2023 as passed by learned Judge, 12th Bench, City Civil Court, Calcutta in Title Suit No. 1023 of 2023 has been assailed.
3. By the impugned order, learned trial judge in Title Suit No. 1023 of 2023 has been pleased to refuse to pass an ad interim order of injunction as prayed for by the plaintiff by filing an application for injunction under the provisions of Order 39 Rules 1 and 2 read with Section 151 of the Code of Civil Procedure.
4. When the matter has been assailed before a co-ordinate Bench, the co-ordinate Bench by an order dated 18.10.2023 passed an ad interim order of injunction restraining the defendants from effecting any construction over the two car parking spaces of the appellant at premises no. 12/2, Madhu Roy Bye

Lane, Kolkata 700 006, Police Station – Girish Park though direction was passed for filing affidavit-in-opposition and affidavit-in-reply, on consent of the parties, the matter was listed today under the heading “Application”.

5. On consideration of the entire materials as placed before this Court and after hearing the learned Counsel for the contending parties, we propose to dispose of the instant appeal in the manner indicated hereunder.
6. Learned trial Court, i.e., learned Judge, 12th Bench, City Civil Court, Calcutta is hereby directed to dispose of the injunction application as filed by the plaintiff in Title Suit No. 1023 of 2023 on merit and after hearing both sides positively within a period of two months from the date of communication of this order excluding the period of Summer Vacation.
7. Liberty is given to the defendants/respondents herein to file their affidavit-in-opposition/written objection against the injunction application as filed by the plaintiff before the trial Court within a fortnight from the date of passing of his order.
8. It is further ordered that till disposal of the injunction application by the trial Court, the ad interim order of injunction as passed by the co-ordinate Bench on 18.10.2023 shall continue.
9. It is, however, needless to mention herein that while disposing the injunction application in Title Suit No. 1023 of 2023, trial Court shall not

persuade himself/herself with any of the observation as made in order dated 18.10.2023 by the co-ordinate Bench of this Court.

10. With the aforementioned observation, the instant appeal being **FMA 601 of 2023** along with interim application being **CAN 1 of 2023** is disposed of.
11. There shall be no order as to costs.
12. Both the parties as well as the learned Judge, 12th Bench, City Civil Court, Calcutta are hereby directed to act on the server copy of this order duly downloaded from the official website of this Court.
13. Urgent photostat certified copy of this order, if applied for be given to the parties, upon compliance of necessary formalities.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)