

10th September, 2024
(D/L No.7&8)
Ct. No.4
(SKB)

FMAT 261 of 2024
With
IA NO: CAN 1 of 2024

Sri Maloy Sengupta and others
Versus
M/s S. K. Enterprises and others

Mr. Samrat Shil
... for the appellants.

Mr. Debraj Bhattacharya,
Mr. Swapan Kumar Ghosh
... for the respondent nos.7 & 12.

1. The affidavit of service has filed today wherein original of the delivery manifest issued by the Sub Post Master Noapara Post Office, Kolkata-700125, has been enclosed showing service of notice issued under postal receipt no.EW098239906IN, upon the respondent no.11. We, therefore, record valid service of notice upon respondent no.11.
2. The appeal is admitted.
3. The appellants were the plaintiffs in the court below, alleging that un-registered agreement of sale was executed in their favour by one M/s. S. K. Enterprises, being the developer, for sale of flats in the project being undertaken for development of the flats on the lands owned by the defendant nos.6 to 11. The said developer

having executed the agreements has thereafter passed away and the new developer has been engaged by the land owners.

4. It is the case of the plaintiffs that the land owners as well as the new developer are refusing to acknowledge the earlier registered agreements executed by the erstwhile developer, and the payments made in cash at the time of execution of the development agreements.
5. The agreements allegedly executed in favour of the plaintiffs are of the year 2018. In respect of such agreements, the plaintiffs/appellants have claimed grant of interim injunction by filing a suit in the year 2024.
6. The trial court tentatively found that since the claim was based on unregistered agreements and was brought before the court admittedly about six years after the agreements have been executed, a *prima facie*; or a case of urgency could not be made out so as to entitle the plaintiff to grant of ad interim injunction. We find no reason to interfere with the order dated 19.06.2024 passed by the court below.
7. The respondent nos.7 and 12 in these proceedings are represented by Mr. Debraj

Bhattacharya, learned counsel. He submits that he would be filing his written objection in the court below within two weeks from date. The appellants/plaintiffs would file their reply, if required, to the written objection within a week thereafter. Thereafter the court should proceed expeditiously and without granting unnecessary adjournments or undue delay to consider the prayer for ad interim injunction, in accordance with law after hearing of the parties., as all issues are left open.

8. We, thus, dispose of the application. Since the matter is yet to be considered by the trial court and in view of the nature of the order passed on the application, nothing survives in the appeal filed against refusal of ad interim injunction and the appeal also stands disposed of without calling for the trial court records or formal preparation of paper books.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)