

26.02.2024
Court No. 3
S/L. No. 41
Suvayan

**FMAT 376 of 2023
With
CAN 1 of 2023**

**Cholamandalam Investment &
finance Company Ltd.
Vs.
Nityananda Roy**

*Mr. Dhilon Sengupta
Mr. Ranjit Singh
Ms. Tutul Das
Ms. Pragya Barua*

...for the appellant.

Mr. Lalratan Mondal

...for the respondent.

1. Heard learned Counsel for the parties.
2. Affidavit-of-service as filed by the learned Counsel for the appellant/petitioner be taken on record.
3. The present appeal has been filed against an *ad interim* order of injunction passed by learned Judge, 13th Bench, City Civil Court at Calcutta in Title Suit No. 222 of 2023.
4. The present appellant/petitioner being the defendant having suffered the *ad interim* order of injunction has preferred this appeal on the ground that the suit has been filed by the plaintiff/respondent, who is a loanee under the present appellant/defendant after execution of the arbitral award. It is further submitted by learned Counsel for the appellant/petitioner that the plaintiff having taken the loan is obliged to

repay the same and the suit as laid is not maintainable.

5. Learned Counsel for the respondent/opposite party submits that he had no knowledge about the arbitration at all as no notice was given to him and he had no opportunity to participate in the arbitration proceeding. The arbitral award has also been executed behind his back.
6. Be that as it may, after the arbitral award is passed whether the civil Court has any jurisdiction to entertain a suit in respect of the self-same matter is a question hitting at the maintainability of the suit.
7. In view of such fact, we dispose of this appeal directing the parties to maintain *status quo* in the meantime and also directing the learned Trial Court to dispose of the injunction application finally after hearing learned Counsel for both the parties within a period of two months from the date of receipt of a copy of this order.
8. In the meantime the question of maintainability of the suit being the primary issue of the case be taken up for hearing by the Trial Court in the suit and after hearing the parties the said issue be decided on its own merit.

9. Accordingly, the appeal being FMAT 376 of 2023 and the interim application being CAN 1 of 2023 are disposed of.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)