

10th January, 2024
(D/L No.13)
(SKB)

FMAT 383 of 2023
With
IA NO: CAN 1 of 2023
+
CAN 2 of 2023

M/s. Landmark Creators Private Limited
-Versus-
Sri Yogendra Pandey

Mr. Pradeep Kumar,
Mr. Subhamoy Patra
... for the defendant/appellant.

Mr. Arif Ali,
Mr. Sayantak Das
... for the plaintiff/respondent.

Re: CAN 2 of 2023

1. Having heard learned counsel for the parties and having perused the petition for condonation of delay, we are satisfied with the explanation given for the delay in preparing the appeal.
2. Accordingly, the delay is condoned subject to payment of cost of Rs.1000/- payable to the High Court Bar Association, Calcutta within a period of one week from today.
3. CAN 2 of 2023 is, thus, disposed of.

Re: FMAT 383 of 2023

1. This is an appeal at the instance of the defendant before the learned court below against an order of interim injunction passed in a petition under Order

XXXIX Rule 1 & 2 of the C.P.C. which has been extended from time to time without taking of the matter for final order of injunction.

2. Learned counsel for the plaintiff/respondent submits that though the *ad interim* order of injunction is in favour of the plaintiff/respondent, the plaintiff/respondent is not responsible for delay in hearing of the petition for passing of the final order of injunction rather it is the defendant/appellant who is responsible for delaying the matter.
3. Be that as it may, we feel persuaded to hold that after passing of the order of *ad interim* injunction and after appearance of the parties in the proceeding, it is the duty of the court below to dispose of the matter as expeditiously as possible.
4. Learned counsel for the appellant undertakes that his client who is the defendant in the court below shall co-operate for timely disposal of the injunction application.
5. Regard being had to the submissions made at the Bar, we dispose of the appeal by directing the learned 7th Bench, City Civil Court at Calcutta to dispose of the injunction application in Title Suit No.1896 of 2022 within a period of three months from the date of receipt of a copy of this order provided the parties co-operate without taking any adjournment on flimsy

grounds. It is made clear that if the injunction application is not disposed of by the aforesaid court within the time prescribed, the court below is directed to seek further extension of time for disposal of the same stating therein the reason of non-disposal of the injunction application within the time prescribed.

6. With the aforesaid observation, the appeal being FMAT 383 of 2023 is disposed of.
7. However, we make it clear that we have not observed anything on the merit of the injunction application pending before the learned court below. If any of the parties wants to file any application for submission of supplementary affidavit or any objection to the petition for injunction, such liberty may be granted but the period of three months as prescribed by us shall be reckoned from the date of filing of such affidavit.
8. In view of disposal of the aforesaid appeal, the application being CAN 1 of 2023 is also disposed of.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)