

Court No. 16
(266283)

17.12.2024

(AD 40-41)

(S. Banerjee)

FMAT 349 of 2024

CAN 1 of 2024

CAN 2 of 2024

The Jute Commissioner & Anr.

Vs.

Loomtex Engineering Private Limited

with

FMAT 350 of 2024

CAN 1 of 2024

The Jute Commissioner & Anr.

Vs.

Loomtex Engineering Private Limited

Mr. Sukumar Bhattacharyya

Ms. Sanchita Barman Roy

...for the appellants

Mr. Soumya Majumder, Sr. Advocate

Mr. Y. Kochar

Mr. Sk. S. N. Islam

...for the defendant

Re: CAN 1 of 2024 (FMAT 349 of 2024)

Upon hearing learned counsel for the parties,
we are satisfied that sufficient cause for the delay in
preferring the appeal has been made out.

Accordingly, CAN 1 of 2024 is allowed, thereby
condoning the delay in preferring FMAT 349 of 2024.

The appeal be deemed to stand registered
accordingly.

Re: FMAT 349 of 2024

Several points have been taken in the present appeal. The appeal has been preferred against an ad interim order of injunction passed in a suit challenging an order dated June 24, 2024 passed by the Jute Commissioner under paragraph 8(a) of the Jute and Jute (Textiles) Control Order, 2016 which, in turn, derives force from Section 3 of the Essential Commodities Act.

Learned counsel for the appellant contends that the order of the Jute Commissioner dated July 3, 2024 was passed for a limited period of three months and, as such, has spent its force. Hence, the suit challenging the same has been rendered academic and infructuous. Accordingly, the impugned order of injunction should be set aside on such count alone.

It is next argued that an appeal lies under Clause 10 of the Jute Control Order against any order passed by the Jute Commissioner. As such, in view of availability of such equally efficacious alternative remedy, the suit itself is not maintainable.

Learned counsel next contends that under Section 12B of the Essential Commodities Act, there is a specific bar in Civil Courts passing orders of

injunction against the Central Government or any State Government or a Public Officer in respect of any act done or purported to be done by such Government or such Officer in his official capacity under the said Act or any Order made thereunder, until after notice of application for such injunction or other relief has been given to such Government or Officer. In the present case, in the absence of such notice, the learned trial Judge acted patently erroneously in passing the order of injunction.

Learned counsel further argues that the impugned order virtually has the effect of decreeing the suit itself, since injunction in the nature of status quo ante has been granted.

As such, it is argued that the impugned order should be set aside.

In view of the appeal involving question of both fact and law as narrated above, we admit the said appeal and the same is taken up for hearing together with the applications on consent of the parties.

Upon hearing learned counsel for the parties, we find that the appeal can be decided on the short point that the life of the very order passed by the Jute Commissioner, which is the sole subject-matter of challenge in the suit itself, has already expired.

The said order was passed on June 24, 2024 and as such, the period of three months thereafter has expired long back. We find from the ordering portion of the same that the order was propounded up to three months from the date of the said order. Hence, in view of the above observations, the injunction application as well as the suit itself have become infructuous. Thus, the injunction order, which is the subject-matter of challenge in the suit, does not survive in any event.

In view of the above, we are of the opinion that no opinion ought to be expressed by this Court on the merits of the other issues involved, since the appeal itself may be disposed of in the light of the observations on the first limb of submission.

Accordingly, FMAT 349 of 2024, along with CAN 1 of 2024 as well as CAN 2 of 2024, are disposed of by setting aside the impugned order on the observation that the order impugned in the said appeal has been rendered infructuous.

Consequently, in view of the observations made above, the suit itself, from which the appeal arises, being Title Suit No. 1133 of 2024 pending before the learned Judge, Third Bench, City Civil Court at Calcutta, has been rendered infructuous. Accordingly, the suit, for all practical purposes, ought

to be dismissed as infructuous. The matter is relegated to the learned trial Judge for the limited purpose of dismissing the suit as infructuous. No order as to costs.

Consequentially, FMAT 350 of 2024 (preferred against an order of extension of the ad interim order which was impugned in FMAT 349 of 2024), along with the connected application bearing CAN 1 of 2024, stand disposed of as well.

(Sabyasachi Bhattacharyya, J.)

(Partha Sarathi Sen, J.)