

AD-5
Ct No.01
Jalpaiguri
26.07.2024
B.Pal

**Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side**

FMAT 25 of 2023

LILY SARKAR AND ANR.
VS
P AND A CONSTRUCTION AND ANR.

Mr. Haider Ali,
Mr. Satyam Sarkar

.....for the Appellant

1. The present appeal has been filed against an order whereby the Trial Court has refused to grant interim injunction.
2. Learned counsel for the appellant argues that a suit for specific performance is maintainable even on the strength of an oral agreement.
3. We find from the impugned order that the same is well-reasoned. The learned Trial Judge, while proceeding on the premise that there might have been a verbal agreement between the parties, arrived at a finding that the plaintiffs have not produced any material to show that there was any act done in pursuance of the said oral agreement concerned in respect of the suit property.
4. Moreover, we do not find any reflection in the order of any document having been produced to

indicate that consideration passed between the parties. Thus, it would not be prudent, merely because another view might be possible, to substitute our view for that of the learned Trial Judge. Accordingly, there is no scope of interference in the appeal.

5. Hence, FMAT 25 of 2023 is dismissed under Order XLI Rule 11 of the Code of Civil Procedure.
6. It is, however, made clear that the Trial Court shall endeavour to dispose of the suit as early as possible, preferably within March 31, 2025.
7. It is further clarified that this Court has not gone into the merits of the suit and it will be open to both parties to make all arguments on merits at the time of hearing of the suit. The findings above are tentative for the purpose of disposal of the present appeal itself.
8. No order as to cost.

(Sabyasachi Bhattacharyya, J.)

(Prasenjit Biswas, J.)