

26.06.2025
Item No.06
Court No.37.
S. De

F.M.A. 567 of 2020

Prasanta Kumar Bhandari.
Vs.
SBJ Construction Private Limited & Anr.

Mr. Ajoy Debnath,
Mr. Tushar Sinha Mahapatra, ...for the appellant.

Mr. Sujay Bandyopadhyay,
Ms. Lopamudra Patra,
Mr. Subhamoy Dutta,
...for the pro-forma respondents.

Dictated by Arijit Banerjee, J.

1. This appeal is directed against an order dated November 30, 2018, passed by the learned 3rd Additional District Judge, Barasat, in Misc. Case No. 261 of 2018 (ARB), under Section 9 of the Arbitration and Conciliation Act, 1996.
2. By the order impugned, the learned Trial Court restrained the respondent nos. 1 and 2 in a Section 9 application (the respondent no.1 is the present appellant) from “transferring and/or alienating or parting with possession in respect of “A” Schedule property to any third party till disposal of the application”. The order was passed ex parte.
3. Being aggrieved, the respondent no.1 before the learned Trial Court has come up with the present appeal. The appeal was admitted after condonation of the delay of about hundred days

by an order dated November 19, 2020, by a co-ordinate Bench which also stayed the operation of the impugned order and directed notice to be served on the present respondent no.1 who was the petitioner before the learned Trial Court.

4. The appeal has been pending since then. We find from an affidavit-of-service affirmed on May 5, 2025, that notice of this appeal was served on both the respondents. However, nobody appears for the respondent no.1.
5. We further see from the aforesaid order dated February 19, 2020, that the respondent no.1 did not appear before the co-ordinate Bench also when operation of the impugned order was stayed, in spite of receipt of notice. Obviously, the respondent no.1 is not interested in the matter.
6. We find from the impugned ex parte order that no reason has been recorded by the learned Trial Court as to why it was necessary to pass an ex parte interim order of injunction. It is trite law that an ex parte order of injunction or any ex-parte order granting any relief must be supported by cogent reasons, however brief the same may be. In the absence of reasons, an order becomes arbitrary. In fact, that is the

ground why the co-ordinate Bench had stayed operation of the order.

7. In view of the aforesaid, we set aside the order under appeal. If the application under Section 9 of the 1996 Act is still pending before the learned Trial Court, the same should be disposed of in accordance with law on an early date upon granting opportunity of hearing to all the parties.

8. The appeal being FMA 567 of 2020 is, accordingly, disposed of.

(Om Narayan Rai, J.)

(Arijit Banerjee, J.)