

22. 19.08.2025
Court No.16.

(Pritam)

**FMA 133 of 2025
with
CAN 1 of 2025.**

**Rafikul Islam Molla.
-Vs.-
Suryakanta Naskar & Ors.**

Mr. Abdul Hamid Molla,
Mr. Md. Abdul Halim
Mr. Sahil Hamid.

.....for the appellant.

Mr. Lakshminath Bhattacharya.

....for the respondent no.1.

1. Affidavit-of-service filed in court today be taken on record.

It appears that all the respondents have not been served.

2. In view of the fact that the ex-parte ad interim order was valid till January 20, 2025, a co-ordinate bench, while admitting the appeal refused to interfere with the impugned *status quo* order as it would tantamount to allow the appeal inasmuch as any stay of operation of a prohibitory order would likely to open up an opportunity for the appellant to comply with the construction which has specifically been restrained by the interim order.

3. It has been submitted on behalf of the appellant that the interim order has been extended thereafter and in the said proceeding, an application has been filed for rejection of the plaint.

4. We have further been informed that the learned trial court fixed August 30, 2024 for hearing of the application for rejection of plaint.
5. It would be open for the appellant to oppose any prayer for injunction of the interim order on the ground taken in the plaint and also in the Memo of Appeal namely that there was a previous suit being Civil Suit No.175 of 2014 filed with identical reliefs and contents as self-same pleading and the said application was rejected on the ground of non-compliance of Section 80 of the C.P.C. which has since attained finality, the suit has been admittedly valid.
6. Essentially, the question of jurisdiction was raised with regard to the maintainability of the suit filed by the plaintiff. While disposing of the appeal with the aforesaid observation, we request the learned trial court before whom the application for rejection of plaint is pending to dispose of the said application within a reasonable time after giving an opportunity of hearing to the parties.
7. The Appeal being FMA 133 of 2025 along with connected application is disposed of accordingly.

(Soumen Sen, J.)

(Apurba Sinha Ray, J.)