

D/L.47.
May 6, 2025.
MNS.

FMA No. 657 of 2025
+
CAN 1 of 2025

Eden Infracon Private Limited
Vs.
Savita Bhagat and others

Mr. Siddhartha Banerjee,
Ms. Soni Ojha,
Ms. Sambrita B. Chatterjee

... for the appellant.

1. The present appeal has been preferred against an order rejecting an application under Section 151 of the Code of Civil Procedure filed by the plaintiff/appellant in a suit for multifarious reliefs, including specific performance of two agreements for development.
2. We find from the records that, by a previous order passed by the learned trial Judge dated January 29, 2025, the ad interim prayer for injunction of the plaintiff/appellant had been refused, against which an appeal has been preferred, which has been admitted by us earlier today.
3. By way of the present application under Section 151 of the Code, virtually the self-same prayer for injunction was reiterated. Since the application, though captioned under Section 151 of the Code, was effectively for recall of an order under Order XXXIX Rules 1 and 2 of the Code, an appeal is otherwise maintainable against the dismissal of the same.

4. However, since at the juncture when the application was made, a prior injunction application under Order XXXIX Rules 1 and 2 was pending and an ad interim prayer in connection therewith had already been refused, the second application under Section 151 for the same relief was not maintainable in law.

5. In effect, by way of the Section 151 application, a recall of the previous order had been sought and the injunction prayer refused earlier had been reiterated.

6. As such, the learned trial Judge was justified in rejecting the said application.

7. In any event, since we have already admitted an appeal preferred against the original order of refusal of injunction which was sought to be recalled by the application under Section 151 of the Code, the present appeal has been rendered academic.

8. In view of the above, we are not inclined to admit the appeal.

9. Accordingly, FMA No. 657 of 2025 is dismissed under Order XLI Rule 11 of the Code of Civil Procedure.

10. Consequentially, CAN 1 of 2025 is disposed of.

11. However, it is made clear that the dismissal of the present appeal shall not in any manner prejudice the adjudication of FMA No. 556 of 2025, which is pending before this Court against the original order refusing injunction.

(Uday Kumar, J.)

(Sabyasachi Bhattacharyya, J.)