

Sl.14
16.04.2025
Court No.6
BP

C.O. 1100 of 2025

Sweet & Salt
-versus-
Future Market Networks Limited

Mr. Amal Kanti Das
Ms. Anyasha Das
..for the petitioner

Mr. Kanishk Kejriwal
Ms. M. Mukherjee
..for the opposite party

This application under Article 227 of the Constitution of India is at the instance of the plaintiff and is directed against an order dated 12th March, 2025 passed by the learned Additional District Judge, 1st Court, Barrackpore in Miscellaneous Appeal No. 102 of 2024.

By the order impugned the learned judge of the 1st Appellate Court has set aside the ad interim order of injunction dated 10th September, 2024 passed by the learned trial judge.

Learned advocate appearing for the petitioner submits that there is no valid arbitration agreement between the parties. He further submits that the opposite parties herein have not yet filed any application under Section 8 of the Arbitration and Conciliation Act, 1996

and the learned judge of the 1st Appellate Court was thus not justified in setting aside the ad interim order of injunction passed by the learned trial judge.

Learned advocate appearing for the opposite party submits that there exists a valid arbitration agreement between the parties. He submits that the ad interim order of injunction was passed and the opposite parties did not get any opportunity to disclose their defence in the title suit. He further submits that in the meantime the petitioner has already vacated the suit property.

After going through the order dated 18th September, 2024 this Court finds that the learned trial judge after perusing the documents placed before the Court was of the view that the plaintiff/petitioner herein is in possession of the suit property. The learned trial judge further noted that no one should be dispossessed without any due process of law.

In the light of the aforesaid factual finding the learned trial judge passed an order of ad interim injunction restraining the defendants/opposite parties from dispossessing the plaintiff from the suit property without due process of law. The opposite party herein preferred a miscellaneous appeal against the aforesaid ad interim order of injunction and the learned judge of the 1st Appellate Court, by the order impugned, allowed the miscellaneous appeal thereby setting aside the order of ad interim injunction passed by the learned trial judge. It is

not in dispute that till the date of passing of the order by 1st Appellate Court no application under Section 8 of the Arbitration and Conciliation Act, 1996 has been filed. The learned Judge of the 1st Appellate Court only held that the petitioner herein has no prima facie case only by observing that the petitioner has to go before the arbitrator. Section 8 of the Arbitration and Conciliation Act, 1996 gives power to the court to refer the parties to arbitration where there is an arbitration agreement and a party to such agreement or any person claiming through or under him applies before the court for referring the matter to arbitration within the time limit specified in Section 8 of the 1996 Act. As observed hereinbefore no such application had been filed by the opposite parties herein at the relevant point of time.

This Court accordingly holds that the learned judge of the 1st Appellate Court was not right in holding that the petitioner has failed to make out any prima facie case and has to go before the arbitrator.

For such reason, this Court is inclined to interfere with the order dated 12th March, 2025. Accordingly, the same is set aside. At this stage, learned advocate appearing for the opposite party submits that an application under Section 8 of the Arbitration and Conciliation Act has been filed very recently.

In view thereof, C.O. 1100 of 2025 is disposed of by requesting the learned Civil Judge (Junior Division), Bidhannagar to proceed in accordance with law.

No order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Hiranmay Bhattacharyya, J.)