

Form No. J(2)

In the High Court at Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present: The Hon'ble Justice Sabyasachi Bhattacharyya
And
The Hon'ble Justice Uday Kumar

FMA 681 of 2025
IA No: CAN 1 of 2024

Sachin Kumar Sharma
Vs.
PNB Housing Finance Limited and another

For the appellant : Mr. Aniruddha Chatterjee, Ld. Sr. Adv.,
Mr. Rupak Ghosh,
Mr. Shohan Sanyal,
Mr. Rahul Sharma,
Ms. Chandrima Sharma

For the
respondent no.1 : Mr. Jishnu Chowdhury, Ld. Sr. Adv.,
Mr. Arnab Basu Mullick

For the
respondent no.2 : Mr. Chayan Gupta,
Mr. Anujit Mookherji,
Mr. Prithish Chandra

Heard on : 17.03.2025, 22.04.2025

Judgment on : 22.04.2025

Sabyasachi Bhattacharyya, J.:-

1. In view of the short conspectus of the appeal, on consent of learned counsel for the parties, the appeal is taken up for hearing along with the injunction application.

2. The appeal arises out of an order whereby the learned Trial Judge refused to extend an ad interim order of injunction granted earlier in favour of the plaintiff/appellant on the sole ground that there was a subsisting order of stay of all further proceedings of the suit granted by a revisional court.
3. The short conspectus of the case is that the plaintiff/appellant instituted a suit for permanent injunction and ancillary reliefs, in which a temporary injunction application was also filed, on which an ad interim injunction was granted in favour of the plaintiff/appellant, which was being extended from time to time.
4. During subsistence of such injunction, the defendant/respondent no.1 filed an application for rejection of the plaint under Order VII Rule 11 of the Code of Civil Procedure, primarily on the premise that the suit is barred by the provisions of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, "the SARFAESI Act").
5. Upon such application for rejection of plaint being dismissed, the defendant/respondent no.1 preferred a revisional application against the same, which is now pending before the appropriate Bench of this court. In connection with the said revision, a learned Single Judge passed an order of stay of all further proceedings of the suit till disposal of the revisional application.
6. When the plaintiff/appellant next approached the learned Trial Judge for extension of its interim order of injunction, the learned Trial Judge, by the impugned order, refused to extend the same on the

premise that in view of the stay order granted by the revisional court, the hands of the learned Trial Judge were tied and the learned Trial Judge could not even pass an interlocutory order in the suit.

7. Upon hearing learned counsel for the parties, we find that the stay order granted by the revisional court operated in respect of further proceedings in the “suit” and, as such, could not be construed to debar the learned trial court from taking up interlocutory applications as well.
8. It is a well-settled proposition of law that the stay of a suit by a superior forum cannot operate as a stay in respect of the interlocutory applications in connection with the suit as well. Since the learned Trial Judge acted contrary to such well-settled legal proposition, the impugned order is bad on such count.
9. Accordingly, FMA 681 of 2025 is allowed, thereby setting aside the impugned order, bearing Order No. 53 dated March 28, 2024 passed by the learned Judge-in-charge of the Tenth Bench of the City Civil Court at Calcutta in Title Suit No. 1448 of 2019 and extending the interim order of injunction initially granted by the learned Trial Judge till disposal of the temporary injunction application pending before the trial court.
10. Since learned senior counsel appearing for the respondent no.1 submits that the respondent no.1 seeks to file a written objection to the temporary injunction application in the court below, we direct the respondents to file their respective written objections to the temporary

injunction application pending in the court below within one week from date.

11. In view of the urgency involved, the learned Trial Judge shall make all endeavour to dispose of the injunction application itself as expeditiously as possible without granting any unnecessary adjournment to either party, positively within four working weeks from the date of communication of this order to the learned Trial Judge.
12. The parties as well as the learned Trial Judge shall act on the written communication of the learned Advocates for the parties, coupled with a server copy of this order, for the purpose of compliance, without insisting upon prior production of a certified copy thereof.
13. Consequentially, IA No: CAN 1 of 2024 is also disposed of.
14. There will be no order as to costs.

(Sabyasachi Bhattacharyya, J.)

I agree.

(Uday Kumar, J.)