

AD-07
Ct No.10
28.10.2025
TN

FMA 1562 of 2025
IA No: CAN 1 of 2025

Asif Ahmed and another
Vs.
Ms. Maya Chunder and others

Mr. Tarique Quasimuddin,
Mr. Abbas Ibrahim Khan

....for the appellants

1. The present appeal arises out of the ad interim refusal of injunction to the plaintiffs/appellants. The plaintiffs/appellants claim to be sub-tenants in respect of the suit property. The immediate lessor of the plaintiffs, that is, the lessee in the original lease, had a right as per the plaintiffs/appellants to induct tenants in the suit property.
2. Learned counsel appearing for the appellants places reliance on Clause 7 of the parent lease deed between the original owner and the lessee to establish such contention.
3. It is submitted that subsequently, upon the expiry of the parent lease, the defendants/respondents sought to evict the plaintiffs/appellants, for which the suit had to be filed and an injunction was prayed.
4. It is argued that even a trespasser cannot be evicted from a property without due process of law. Hence, since the appellants claim to be direct tenants under the original lessor, the learned Trial Judge acted

without jurisdiction in refusing to grant ad interim injunction protecting the possession of the appellants.

5. However, upon hearing learned counsel, this Court is of the clear opinion that the tenet of law, that even a trespasser cannot be evicted without due process of law, cannot be stretched so far as to entitle a trespasser to an injunction against the true owner.
6. Undoubtedly, the position of law is settled that even a trespasser cannot be evicted without due process of law. However, the status of the present appellants is only through the appellants' lessor, that is, the lessee in respect of the original lease, the lease granted to whom itself has since expired.
7. It is another well-settled proposition of law that one cannot give more than what one has and, as such, with the expiry of the original lease, *prima facie* the right claimed by the appellants through the original lessee has also expired, thereby disentitling the appellants from claiming any legal right of possession in respect of the suit property.
8. Thus, we do not find any illegality in the impugned order refusing to grant ad interim injunction in respect of the possession of the appellants in respect of the suit property.
9. Accordingly, FMA 1562 of 2025 is dismissed under Order XLI Rule 11 of the Code of Civil Procedure. Consequentially, CAN 1 of 2025 is also dismissed.

10. We, however, make it clear that we have not entered into the merits of the main injunction application and/or the suit and it will be open to the learned Trial Judge to independently decide on merits the injunction application and the suit in accordance with law.
11. There will be no order as to costs.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)