

Item- 24. 22-09-2025

sg

Ct. 1

**FMAT 329 of 2025
CAN 1 of 2025**

Taher Alam alias Taher Ali
Versus
Aftab Alam

Mr. Debasis Roy, Sr. Adv.
Ms. Srijita Mukherjee

...for the petitioner

1. Affidavit of service filed in Court is taken on record.
2. In spite of service, the respondent is not represented.
3. Having regard to the absurdity of the order and the fact that the impugned order is palpably illegal and de hors all known tenets of law as recorded by the coordinate Bench in its order dated 14th August, 2025 and in absence of any material justification that the order impugned is sustainable in law, we set aside the impugned order on the same reasoning as recorded by the coordinate Bench in its detailed order dated 14th August, 2025 when the interim order was passed with the following facts:

“There shall be stay of operation of the impugned order, bearing Order No. 07 dated July 05, 2025, to the limited extent that the same restrained the appellant/petitioner from going over and interfering with the suit land of the plaintiff and from putting lock and key on the suit premises.”

4. The aforesaid observation is confirmed. However, other portion of the impugned order restraining the defendant/appellant from changing the nature and character of the suit property shall continue till the

disposal of the suit.

5. The defendant shall not be restrained from carrying on his business from the suit land without any interference of the plaintiff.
6. The appeal and the application are accordingly, disposed of.
7. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

[Soumen Sen, C.J. (Acting)]

(Apurba Sinha Ray, J.)