

17
03.9.2025
Ct. No. 16
SB

FMA 1465 of 2025
CAN 1 of 2025 (injunction)

Sri Prashant Malhotra
Vs.
WINMAXX INFRASTRUCTURE PVT. LTD. & Ors.

Mr. Siva Prasad Ghose For the appellant

1. The plaintiffs have filed the suit for cancellation of a development agreement. The filing of the suit was not preceded by any letter of cancellation. The development agreement was entered into the year 2014 and suit for cancellation was filed in the year 2025. It is alleged that the developer has not performed any of its obligation under the agreement.
2. The learned Trial Court has recorded that the plaintiff has been able to raise fair and arguable question for trial. But in the facts and circumstances of the case, the Court is of the opinion that the defendant is required to be heard. It needs to be ascertained that the defendant at all performed his obligation or not and for that purpose, we feel that the direction for issuance of notice upon the defendant was justified.
3. It is alleged that the defendant are disturbing the possession of the appellant but there is no sufficient proof to substantiate such allegation.
4. On such consideration, at this stage, we are not inclined to interfere with the discretion exercised by the defendant.

5. However, we direct the learned Trial Court to consider the prayer for temporary injunction on 06.1.2026 when the matter is fixed for appearance of the respondents.
6. The appeal and the application stand dismissed.
7. However, there shall be no order as to costs.

(Soumen Sen, J.)

(Apurba Sinha Ray, J)