

AD-33
Ct No.16
25.03.2025
TN

FMAT 382 of 2024
IA No: CAN 1 of 2024

IISCO Steel Plant Burnpur
Vs.
Payel Enterprises and another

Mr. Kallol Basu,
Mr. Nilanjan Pal,
Mr. Samik Sarkar

....for the appellant

Mr. Aritra Basu,
Mr. Souradeep Banerjee,
Ms. Sanjana Sinha

....for the respondents

1. By the impugned order, a temporary injunction application filed by the plaintiff/appellant has been dismissed.
2. Learned counsel appearing for the appellant submits that in view of benami transactions having been effected in the name of the employees of the plaintiff/appellant, which employees subsequently executed registered deeds of release in favour of the plaintiff company, the plaintiff has title to the property. As such, the learned Trial Judge acted illegally and without jurisdiction in refusing temporary injunction.
3. However, we find, upon perusal of the documents and upon hearing learned counsel for the respondents, that the entire suit property was transferred by the admitted purchasers of the property, namely, one Prodyot and one Kamal (although claimed to be

benamdars of the plaintiff), in favour of the defendants, either directly or through the successor(s)-in-interest of such purchasers.

4. As such, we find that *prima facie* the defendants have been able to prove their title and possession in respect of the entire suit property.
5. In fact, the deeds of release, even if executed subsequently by the original purchasers Prodyot and Kamal in favour of the plaintiff, would be toothless and would not pass any title in favour of the plaintiff/appellant, in view of the said transferors having no title in the property at that juncture by dint of the prior transfers effected by them in favour of the defendants/respondents.
6. That apart, we also *prima facie* find from the reliefs claimed in the suit that in the same breath, the plaintiff has sought for permanent injunction restraining the defendants from disturbing the lawful and peaceful possession of the plaintiff over the suit property in relief (c) of the plaint whereas in relief (b), the plaintiff has claimed mandatory injunction directing the defendants to remove all construction, if any, from the suit property and to hand over vacant possession of the suit property to the plaintiff.
7. *Ex facie*, such reliefs are mutually exclusive and contradictory to each other. The very prayer of eviction/mandatory injunction nullifies the claim of the plaintiff/appellant of being in possession of the

property and, as such, precludes the court from granting any injunction to protect such alleged possession.

8. Thus, we do not find any illegality or irregularity in the impugned order.
9. Accordingly, FMAT 382 of 2024 is dismissed under XLI Rule 11 of the Code of Civil Procedure. Consequentially, CAN 1 of 2024 is also dismissed.
10. There will be no order as to costs.
11. It is made clear that the above observations have been made *prima facie* for the purpose of deciding the appeal and will not prejudice the learned Trial Judge unnecessarily on merits at any further stage of the suit.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)