

AD-13
Ct No.16
25.02.2025
TN

FAT 413 of 2024
IA No: CAN 1 of 2024

Ecoplus Precast Pvt. Ltd.
Vs.
Sri Pankaj Manna and others

Mr. Aniruddha Mitra, Ld. Sr. Adv.,
Mr. Debraj Sahu,
Ms. Labanyasree Sinha,
Mr. Bhaskar Dwivedi

....for the appellant

Mr. Debasish Roy, Ld. Sr. Adv.,
Ms. Sumitra Das

....for the respondents

1. When we take up the application for stay for hearing, on instruction, learned counsel for the plaintiffs/respondents takes an absolutely fair stand. It is submitted that the appeal may be disposed of in order to save unnecessary protraction of litigation by permitting the defendant/appellant to file its written statement within a limited period and directing the learned Trial Judge to dispose of the suit as expeditiously as possible. While appreciating such fair stand, it should be kept in mind that a reasonable period should be given to the learned Trial Judge to dispose of the suit in view of the heavy pressure on courts.
2. Taking all facets of the matter into consideration, we find from the records that the learned Trial Judge ought to have granted an opportunity to the

defendant/appellant at least to have pointed out the fallacies and address the question of non-maintainability, if applicable, of the suit before disposing of the same *ex parte*. Accordingly, on consent of parties, we take up the appeal and application for hearing together.

3. FAT 413 of 2024 is disposed of in the light of the above observations by setting aside the impugned judgment and *ex parte* decree dated November 28, 2024 passed by the learned Civil Judge (Senior Division), First Court at Howrah in Title Suit No. 142 of 2024 and remanding the matter to the court below. The defendant/appellant shall file its written statement in the said suit within March 03, 2025. In default of such filing, the suit shall be proceeded with *ex parte* against the defendant, however, permitting the defendant/appellant in such case to address the fallacies if any in the plaint case, including the questions of maintainability/jurisdiction and other preliminary objections, and to cross-examine the witnesses of the plaintiff.
4. In the event the written statement is filed by March 03, 2025, the suit shall proceed on a contested basis.
5. The learned Trial Judge shall dispose of the suit as expeditiously as possible upon giving adequate opportunity to the defendant/appellant to cross-examine the witnesses of the plaintiff and to adduce its own evidence, as expeditiously as possible, positively

within September 30, 2025, without granting any unnecessary adjournment to either of the parties.

6. IA No: CAN 1 of 2024 stands disposed of accordingly.
7. There will be no order as to costs.
8. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)