

AD-04&05
Ct No.16
23.06.2026
TN

FMAT 131 of 2026
IA No: CAN 1 of 2026
CAN 2 of 2026

Asurari Nirman Private Limited
Vs.
Saurabh Parmanand Tapdiya and others

With

FMA 667 of 2026
IA No: CAN 1 of 2026

Asurari Nirman Private Limited
Vs.
Saurabh Parmanand Tapdiya and others

Ms. Labanyasree Sinha,
Ms. Mobina Ali

..... for the appellant

Mr. Arindam Banerjee, Snr. Adv.,
Mr. Piyush Agarwal,
Ms. Shivangi Thard,
Mr. Debojyoti Das,
Ms. Mahasmriti Ghosh,
Mr. Vaibhav Kashyap,
Mr. Mahasree Ghosh

....for the respondents

Re: CAN 1 of 2026
in
FMAT 131 of 2026

1. Affidavit-of-service filed today be kept on record.
Further service on the defendants/respondent nos. 2 to 5 is dispensed with.
2. The two appeals have been filed respectively against the grant of *ex parte* ad interim injunction and the extension thereof.
3. In the first of the two, there is a delay of about 21 days in preferring the appeal. The ground taken in the condonation application is primarily that

although the appellant started consultation with its Advocates in time, the appellant was advised to ascertain title of the plaintiffs/respondents and, as such, took some time in obtaining necessary title deeds and other papers in order to comprehensively challenge the *ex parte* ad interim injunction order.

4. Learned senior counsel appearing for the plaintiff/respondent no.1 opposes the prayer for condonation and submits that satisfactory explanation for the entire period from the passing of the order to the preference of the appeal has not been furnished.
5. Secondly, the appellant has suppressed that it has already participated in the hearing of the injunction application before the Trial Court by seeking time to file a written objection thereto.
6. However, upon considering the respective submissions of the parties, we find that the delay in preference of the appeal is miniscule and sufficient credible explanation has been furnished as to the delay in preferring the same.
7. Accordingly, CAN 1 of 2026 is allowed, thereby condoning the delay in preferring FMAT 131 of 2026.
8. There will be no order as to costs.

Re: FMAT 131 of 2026
with
CAN 2 of 2026

9. FMAT 131 of 2026 has been preferred against an *ex parte* ad interim injunction granted in favour of

plaintiff/respondent no.1 in a suit for declaration of title, permanent injunction and other consequential reliefs.

10. Learned counsel appearing for the defendant no.5/appellant argues that the plaintiff previously filed a suit simpliciter for permanent injunction and had obtained an ad interim injunction. The appellant has participated in the suit, which is still pending, by taking out an application for vacating the ad interim order. However, no favourable order was passed in respect of the said application.
11. Be that as it may, learned counsel submits that the appellant has purchased the suit property and had the same duly mutated in its name.
12. Despite the same, without giving any opportunity to the defendant no.5/appellant and the other defendants to contest the title of the plaintiff/respondent no.1, by way of the impugned order of ad interim injunction, not only have the defendants been restrained from disturbing the peaceful possession of the plaintiff but also from giving effect to their validly executed registered purchase deeds.
13. It is candidly submitted by learned counsel for the appellant that the appellant is more aggrieved by the latter portion of the impugned order, whereby the defendant no.5/appellant, despite holding valid registered deeds, is not being able to assert its title in respect of the subject property.

14. However, upon hearing learned counsel and going through the materials before us, we find that a sufficient *prima facie* triable issue to go for trial has been made out by the plaintiff/respondent no.1 in the Trial Court to justify the grant of ad interim injunction which is impugned herein.
15. In the event the appellant is permitted to act on the registered deeds, certain rights might be created in favour of third parties and irreversible alterations may be made to the subject property, thereby affecting the outcome of the suit.
16. More importantly, admittedly, the date of the purchase deeds of the appellant is subsequent to that of the plaintiff/respondent no.1.
17. The other aspect which is to be considered is that despite the name of the plaintiff/respondent no.1 having been mutated only regarding a portion of the property covered by the plaintiff's title deed, it is well-settled that mutation *per se* does not confer any title. Since the plaintiff is armed with a title deed as well, it cannot be said at this stage that the absence of mutation in respect of the entire property in the name of the plaintiff vitiates such title.
18. Be that as it may, we do not want to further make any comments on merits since it might prejudice the outcome of the injunction application itself. Suffice to say at this stage that we do not find any error of law or fact evident from the impugned order justifying interference with the same.

19. However, needless to say, the impugned order shall operate prospectively, from the date of the passing of the order, and shall not by itself vitiate or have the effect of negating any steps already taken prior to the date of the impugned order by the appellant on the strength of its purchase deeds.
20. Accordingly, FMA 131 of 2026 is dismissed under Order XLI Rule 11 of the Code of Civil Procedure, with the observation that this Court has not entered into the merits of the case and it will be open to the parties to canvass all points, which will be independently decided by the learned Trial Judge without being prejudiced in any manner by any of the observations made herein or in the order impugned before us.
21. CAN 2 of 2026 is accordingly disposed of as well.
22. There will be no order as to costs.

Re: FMA 667 of 2026
with
CAN 1 of 2026

23. As a consequence of the dismissal of the earlier appeal against the parent order which has been extended by the order impugned in the present appeal, FMA 667 of 2026 is also dismissed under Order XLI Rule 11 of the Code of Civil Procedure. Consequentially, the stay application filed in connection therewith, bearing CAN 1 of 2026, stands dismissed as well.
24. There will be no order as to costs.

25. 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.)

(Supratim Bhattacharya, J.)