

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
COMMERCIAL APPELLATE DIVISION**

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

F.M.A. 775 of 2025

Arch Infra Properties Private Limited

Vs.

Birendra Bhagat

With

CAN 1 of 2025

For the Appellant

: Mr. Mr. Sourashis Dasgupta
Mr. Ashis Kumar Mukherjee
Mr. Saurabh Prasad
Ms. Subhasree Hazra

For the Respondent

: Mr. Jishnu Chowdhury, Sr. Adv.,
Mr. Rudrajit Sarkar
Mr. Aditya Kanodia
Ms. Sharfaa Ahmed
Ms. Vanshika Newer

Hearing concluded on

: April 2, 2026

Judgment on

: April 2, 2026

Debangsu Basak, J.:-

1. Appeal is at the behest of a defendant in a commercial suit and directed
against an order dated February 20, 2025 passed therein.

2. By the impugned order, learned Trial Judge modified an existing interim order of injunction. Learned Trial Judge restrained the appellant from selling its interest in the property concerned.
3. Learned advocate appearing for the appellant submits that the suit is simplicitor for recovery of money. The respondent as a plaintiff is not entitled to security of such money claimed as directed by the learned Judge by the impugned order.
4. The other contentions of the appellant are that the learned Trial Judge disregarded all objections since no written objection was filed to the injunction petition.
5. Learned advocate appearing for the appellant submits that the learned Trial Judge overlooked the fact that there was a petition filed by the appellant objecting to the grant of injunction. Learned Trial Judge erred in not treating such petition as a written objection of the appellant to the application for grant of injunction.
6. The respondent is represented.
7. Materials on record demonstrate that the appellant engaged the respondent for construction of number of buildings in a project situated at Starwood Housing Complex, Chinar Park.

8. Respondent acted in terms of such agreement and constructed such buildings. Bills submitted from time to time by the respondent on the appellant remain unpaid. It is for the recovery of such unpaid bills that suit was filed.
9. In the suit, respondent obtained *ex parte ad interim* injunction. Such *ex parte ad interim injunction* was modified by the impugned order.
10. Learned Trial Judge proceeded on the basis that the subject matter of the suit should be preserved. In protecting the money claim of the respondent, learned Trial Judge enjoined the appellant from selling its interest in the properties concerned.
11. Learned Trial Judge rightly held that the respondent as a plaintiff was able to make out a *prima facie* case to go trial. The balance of convenience and inconvenience lies in favour of the respondent and that unless order of injunction is granted, respondent will suffer irreparable loss and injury.
12. Initial *ad interim* injunction was in respect of 8 flats. Submission of the respondent that the respondent as the plaintiff wants that the appellant be restrained from selling at least 8 out of the 30 flats in the 7th and 8th towers constructed was recorded. However, injunction was passed on the entirety of the property of the appellant.

13. In such circumstances, it would be appropriate to modify the order impugned. The appellant is restrained by an order of injunction from selling off at least 8 out of the 30 flats in the 7th and 8th towers constructed under the agreement.

14. With the aforesaid modification, **F.M.A. 775 of 2025** and the connected application being **CAN 1 of 2025** are **disposed of** without any order as to costs.

(Debangsu Basak, J.)

15. I agree

S.D.

(Md. Shabbar Rashidi, J.)