

Form No.J(2)

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
Appellate Side

Present : The Hon'ble Mr. Justice Sabyasachi Bhattacharyya
&
The Hon'ble Mr. Justice Supratim Bhattacharya

FMAT No. 454 of 2025

Shri Rupendra Lal Ganguli
-vs-
Smt. Anita Singh

For the appellant : Mr. Gopal Pahari,
Ms. Arunima Lala,
Ms. Mandeep Kaur.

For the respondent : Mr. Rajdeep Bhattacharya

Heard on : January 5, 2026.

Judgment on : January 5, 2026.

Sabyasachi Bhattacharyya, J.:

1. Liberty is given to the learned Advocate-on-record for the appellant to rectify the valuation statement in the

Memorandum of Appeal as well as the connected application during the course of the day.

2. The affidavit-of-service filed today be kept on record.
3. The appeal and the application are taken up for hearing together in order to save unnecessary prolongation of litigation for both the parties, since the questions involved in the application and the appeal are virtually identical.
4. The appeal has been preferred against a refusal of ad interim injunction sought by the plaintiff/appellant in a suit for specific performance of contract.
5. Learned counsel appearing for the appellant argues that the learned trial Judge proceeded on the premise that no piece of paper has been submitted by the plaintiff to show that he alone was the authorized representative of one "Jana Kalyan Samity". However, it is contended that the said factor is a non-issue in the suit.
6. It is submitted that on behalf of one Jana Kalyan Samity, the subject property was previously transferred in the name of one Tribhuban Singh, since deceased, being the husband of the present defendant/respondent, in his individual capacity. Subsequently, the defendant/respondent Smt. Anita Singh,

also in her individual capacity, entered into an agreement for sale in favour of the plaintiff/appellant. As such, there arises no question of the plaintiff having to substantiate that he is the representative of the said Jana Kalyan Samity.

7. Even otherwise, it is submitted that the learned trial Judge observed that the agreement-in-question was never notarized nor registered, which do not *per se* affect the enforceability of the same.
8. Learned counsel for the defendant/respondent argues that in terms of the agreement relied on by the plaintiff/appellant, in particular Clause 4 thereof, time was the essence of the contract, since in the event the deed was not executed in terms of the same, the earnest money was to be forfeited by the first party. It is submitted that even the first letter issued by the plaintiff towards performance of the contract was beyond the stipulated period of three months as envisaged in the agreement.
9. Learned counsel for the appellant, in reply, places reliance on the still subsequent letter issued by the defendant/respondent on July 21, 2025.

10. Upon a perusal of the impugned order, we find that the learned trial Judge palpably proceeded on erroneous premises.
11. Insofar as the notarization of the agreement-in-question is concerned, it is well-settled that notarization is not relevant for the purpose of enforceability of an agreement.
12. The ground of non-registration is also not a good ground for refusal of injunction since, in a suit for specific performance of contract, prior registration of the agreement is not an essential pre-requisite for the court taking into consideration the agreement.
13. That apart, the learned trial Judge did not observe that the document was insufficiently stamped. Even if the agreement was insufficiently stamped, the proper course of action for the trial Court would be to send the document for impounding but at the same time to consider the question of grant of ad interim injunction.
14. As far as the other ground of refusal is concerned, the same is an absolute non-issue, since both the parties entered into the agreement-in-question in their individual capacities and there is no question of the vendor of the predecessor-in-

interest of the defendant, that is, the Jana Kalyan Samity, having anything to do with the present transaction. Hence, there was no liability on the part of the plaintiff/appellant at all to establish that he was a representative of the said Samity.

15. Insofar as the argument of the defendant/respondent before this Court to the effect that time was the essence of contract is concerned, we find prima facie the said argument is not tenable in the eye of law. Clause 4 of the agreement provides that the second party of the agreement, that is, the present plaintiff/appellant, was to pay Rs. 20,000/- on the date of signing of the agreement, which payment has already been made. The balance consideration of Rs. 22,00,000/- was to be paid on the date of final registration by transferring the amount by the mode as specified in the agreement. If the second party, that is, the present plaintiff/appellant, in spite of readiness of the first party, that is, the defendant, and without any reasonable grounds failed to get transfer the schedule plot of land within the stipulated time period of three months, only in such circumstance Clause 4 of the agreement contemplates that the earnest money of Rs. 20,000/- would be forfeited. However, the very premise of the plaint case, which ought to

have been treated as sacrosanct at the ad interim stage by the learned trial Judge, is that despite the plaintiff being ready and willing at all points of time, it was the defendant, due to her laches, who failed to execute the title deed in favour of the plaintiff. As such, as per the case made out in the plaint and the injunction application, which is still uncontroverted, the forfeiture clause embedded in Clause 4 of the agreement is not attracted at all.

16. Thus, the question of invocation of the time-line stipulated in Clause 4 does not arise, at least as per the plaint case.
17. That apart, the subsequent correspondence between the parties dated July 9, 2025 and July 21, 2025 also indicates that there was an agreement between the parties, which the respondent failed to honour, compelling the appellant to institute the suit for specific performance of contract.
18. Thus, a sufficiently strong *prima facie* case has been made out for the injunction application to be heard on merits by the learned trial Judge.
19. Moreover, from the averments made in the injunction application in the trial court and the plaint case, this Court is of the clear opinion that the balance of convenience and

inconvenience and irreparable injury factors lie in favour of grant of injunction.

20. Accordingly, FMAT No. 454 of 2025 is allowed on contest, thereby setting aside the impugned order, bearing Order No. 2 dated August 26, 2025 passed by the learned Civil Judge (Senior Division) at Durgapur, District: Paschim Bardhaman in Title Suit No. 75 of 2025, and granting ad interim injunction restraining the defendant/respondent and/or her men and agents from selling, transferring, alienating, encumbering and/or parting with possession of the suit property in favour of any third party in any manner till disposal of the temporary injunction application by the trial court.
21. The defendant/respondent herein shall file her written objection to the injunction application within a fortnight from date in the trial Court.
22. The learned trial Judge shall make all endeavour to dispose of the temporary injunction application itself as expeditiously as possible, preferably by February 15, 2026.
23. It is made clear that the above observations are tentative in nature and arrived at for the purpose of disposal of the present appeal only and will not prejudice in any manner the rights and

contentions of the parties in the trial court, which will be at liberty to decide the temporary injunction application pending before it as well the suit independently on their own merits.

24. Consequentially, CAN 1 of 2025 is disposed of as well.
25. There will be no order as to costs.
26. Urgent photostat certified copy of this judgment, if applied for, be supplied to the parties at an early date.

I agree.

(Sabyasachi Bhattacharyya, J.)

(Supratim Bhattacharya, J.)