

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. 461 of 2025

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CAN 1 of 2025

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CAN 2 of 2025

Washid Ahmed and another
-vs-
Sayed Sohailur Rahman and others

For the appellants : Mr. Partha Pratim Roy,
Mr. Abir Lal Chakravorti

For the respondents : Mr. Shambhu Nath Ray,
Ms. Munmun Das,
Ms. Tuhina Parvin,
Ms. Afreen Parvez

Heard on : February 16, 2026.

Judgment on : February 16, 2026.

Sabyasachi Bhattacharyya, J.:

1. The present appeal arises at the behest of the plaintiffs/appellants in a suit for a decree declaring that the defendants are in breach of an agreement dated January 29,

2024, for a declaration that the plaintiffs cannot be evicted/ousted from the suit premises by the defendants/respondents without due process of law, and for consequential reliefs by way of permanent injunction. By the impugned order, the plaintiffs/appellants' prayer for ad interim injunction, in connection with a temporary injunction application, has been refused.

2. The case of the plaintiffs/appellants is primarily that the plaintiffs are tenants in respect of the suit property.
3. A tripartite development agreement was entered into between the landlord and the developer (both defendants in the suit) as well as the plaintiffs/tenants.
4. Clause – 1 of the agreement provided that the landlord and the developer would cooperate with the tenants/appellants for vacating the ground floor of the present tenanted room measuring about 275 square feet to enable the first party and the third party to the agreement (the landlord and the developer) to construct a new building upon demolishing the existing structure. It is also indicated in Clause – 1 that during the period of construction of new building, the tenants/appellants were to be given sufficient alternative

accommodation in the same locality at the cost of the third party to the agreement, to be paid at the rate of Rs.15,000/- per month, and that the appellants, according to their desire and requirement, would make arrangement with the said cost for shifting their accommodation from the said tenanted room to another premises according to their choice.

5. Clause – 2 of the agreement provided that the third party/developer would make construction of a new building at the said premises according to a sanction plan to be obtained from the Kolkata Municipal Corporation on mutual undertaking.
6. It is submitted that not only has no alternative accommodation been given to the appellants in terms of the agreement, the sanction, purportedly obtained by the developer, was without the approval/undertaking of the appellants.
7. Learned counsel for the respondents argues that a sanction plan has been obtained with the approval/undertaking of the appellants. Moreover, it is submitted that in terms of the agreement-in-question, the developer and the landlord were only to facilitate the shifting of the appellants to a different property and to bear the occupation charges for such accommodation.

8. It is also argued that there is an arbitration clause in the development agreement, which has been given a go-by by the plaintiffs/ appellants by filing the suit before a civil court.
9. Be that as it may, we find from the materials before us that a sufficiently strong *prima facie* case has been made out for grant of ad interim injunction at this stage.
10. It is well-settled that at the *ex parte* ad interim stage, the Court has to look only at the averments made in the injunction application and the plaint and the annexures thereto.
11. Going by such principle, in terms of Clauses – 1 and 2 of the tripartite development agreement, a valuable right has accrued in favour of the appellants to have an alternative accommodation arranged by the defendants/respondents prior to commencement of construction of the proposed new building on the suit property. Such accommodation has not yet been arranged.
12. Also, there is nothing on record as yet to prove conclusively that the consent or undertaking of the appellants was obtained in respect of any sanction plan. Also, the sanction plan purportedly sought to be relied on by the respondents is contended by the appellants not to be in terms of the

agreement between the parties, since apparently the accommodation of the tenants shown in the proposed new construction is at the first floor, whereas the agreement between the parties was allegedly to give an accommodation to the appellants on the ground floor, commensurate with the location of the existing tenancy.

13. Hence, sufficient arguable questions have been raised to hear out the temporary injunction application before the trial court on merits. Also, the balance of convenience and inconvenience is in favour of grant of injunction in view of the averments made in the temporary injunction application.
14. Furthermore, as per the averments made in the temporary injunction application, there is reasonable chance of irreparable injury occurring to the appellants in the event the appellants are ousted from the subject premises without due process of law, without accommodating them in a suitable alternative habitation during the construction of the new project on the suit property and without a sanction plan being obtained by the developer with the consent of the appellants in terms of the agreement between the parties.

15. Accordingly, upon hearing learned counsel for the parties, FMAT No. 461 of 2025 is allowed on contest, thereby setting aside the impugned order, bearing Order No. 2 dated November 15, 2025 passed by the learned Judge, Eleventh Bench, City Civil Court at Calcutta in Title Suit No. 2566 of 2025 and granting ad interim injunction restraining the respondents and/or their men and agents from disturbing the peaceful possession of the appellants in respect of the suit premises and/or from ousting the appellants from the suit premises without due process of law, as well as from alienating, encumbering and/or creating any third party interest in respect of the suit property and/or from changing the nature and character of the same till disposal of the temporary injunction application pending before the trial Court in connection with Title Suit No. 2566 of 2025.
16. The defendants/respondents shall file their written objection(s) to the injunction application in the trial Court within a fortnight from date.
17. The learned trial Judge is requested to dispose of the injunction application filed in connection with the aforesaid suit as expeditiously thereafter as possible, preferably within four

weeks from the date of filing of written objection(s) by the respondents.

18. The connected applications, being CAN 1 of 2025 and CAN 2 of 2025, are disposed of accordingly.
19. It is made clear that this Court has not entered into the merits of the injunction application and/or the suit, and it will be open to the learned trial Judge to dispose of the temporary injunction application as well as the suit on their own merits and in accordance with law, without being influenced in any manner by any of the observations made herein.
20. There will be no order as to costs.
21. Urgent photostat certified copy of the order, if applied for, be supplied to the parties at an early date.

I agree.

(Sabyasachi Bhattacharyya, J.)

(Supratim Bhattacharya, J.)