

AD-29
Ct No.16
28.04.2025
TN

FA 91 of 2025
IA No: CAN 1 of 2024

Soma Guha and another
Vs.
Md. Arif and another

Mr. Supratim Laha,
Mr. Dilip Kr. Mondal,
Ms. Suchitra Sur

....for the appellants

Mr. Anshunath Chakraborty

....for the respondents

Re: IA No: CAN 1 of 2024

1. IA No: CAN 1 of 2024 is an application for stay of operation of the impugned decree to the extent that the learned Trial Judge directed refund of a part of the consideration of the amount which had been paid by the appellants in terms of the purported agreement for purchase of the suit property, of which specific performance was sought.
2. Learned counsel for the appellants contends that the appellants insist upon getting a decree of specific performance and, as such, in the event they are compelled to accept the refund as directed, the appeal may be rendered infructuous.
3. Upon hearing learned counsel for the parties, we accept the proposition advanced by the appellants.

4. Accordingly, IA No: CAN 1 of 2024 is disposed of by staying the operation of the impugned decree, to the extent that the part of the consideration amount paid by the appellants to the respondents has been directed to be refunded, till disposal of the appeal.
5. There will be no order as to costs.

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6. In view of the appearance of the respondents through their learned Advocate, service of notice of appeal on the respondents is dispensed with and it will be deemed that the notice of appeal operates from this day for the purpose of filing cross-objection which, according to learned counsel for the respondents, the respondents seek to file.
7. The trial court records shall be brought by special messenger at the cost of the appellants, to be deposited within a week from date.
8. The appellants shall prepare and file the requisite number of papers books, incorporating the cross-objection, if filed by the respondents, within eight weeks from the date of service of notice of arrival of the trial court records on the learned Advocate for the appellants.

9. Liberty to the parties to mention the appeal and cross-objection, if any filed in the meantime, for inclusion in the list as and when the appeal is ready for hearing.
10. Liberty is granted to the learned Advocate for the respondents to file his Vakalatnama in the department by tomorrow (29.04.2025).

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)