

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
Commercial Division

Present:

The Hon'ble Justice Shekhar B. Saraf

G.A. NO. 2 of 2021

C.S. NO. 180 of 2021

Narsingh Ispat Udyog Private Ltd.
Versus
Jwala Coke Private Ltd.

AND

G.A. NO 2 of 2021

C.S. NO. 181 of 2021

Narsingh Ispat Ltd.
Versus
Lucky Coke Manufacturers

AND

G.A. NO. 2 of 2021

C.S. NO. 182 of 2021

Narsingh Ispat Ltd.
Versus
Jwala Coke Industries

AND

G.A. NO. 2 of 2021

C.S. NO. 183 of 2021

Narsingh Ispat Ltd.
Versus
Jwala Coke Private Ltd.

For the Plaintiff/Petitioner : Mr. Reetobrata Mitra, Advocate
Mr. Anirban Kar, Advocate
Mr. Pramit Kr. Shee, Advocate
Ms. Nibedita Mukherjee, Advocate
Ms. Vedatri Bhattacharya, Advocate

For the Defendant/Respondent : Mr. *Anirban Ray*, Advocate
Ms. Rituparna De Ghose, Advocate
Ms. Micky Chowdhury, Advocate
Mr. Arnab Sardar, Advocate

Heard on : November 25, 2021, December 8, 2021 and December 9, 2021

Judgment on : December 14, 2021

Shekhar B. Saraf, J.:

Facts:

1. This is an application by the defendant/respondent for vacating of the ex parte order dated September 16, 2021 granting ad-interim order of injunction in C.S. No. 180 whereby the defendant/respondent was restrained from selling or transferring coal or coke equivalent to value of about Rs. 36 Lacs. The claim raised by the plaintiff/petitioner in C.S. No. 180 is on account of coke sold to the defendant/respondent while in C.S. No. 181, 182 and 183 the contract was for supply of coal to the defendant which was to be converted to coke and returned to the plaintiff for an amount commensurate to the value of the coke supplied to the petitioner. A purchase order was placed by the defendant on the plaintiff on December 1, 2020 for 500 MT of Lam Coke which was received by the plaintiff. Against such purchase order the plaintiff duly supplied 515.31 MT of Lam Coke. On August 19, 2021, the plaintiff raised a demand

notice upon the respondent for a money claim amounting to Rs. 35,72,141/-. On August 21, 2021, an FIR was registered against the directors of the plaintiff company namely Hemant Goyal and Anil Goyal by one Prakash Kumar Agarwala who is the authorised signatory of Ayesh Coal Trading Company (sister company of the defendant). Pursuant to this, both accused directors of the petitioner/plaintiff company were arrested on September 10, 2021.

2. The accused directors of the plaintiff company had affirmed CS No. 180 of 2021 on September 6, 2021, and GA No. 1 was filed on September 9, 2021. Thereafter, the bail petition of the accused directors was rejected on September 15, 2021 by Judicial Magistrate 1st Class, Dhanbad. On September 16, 2021 ex-parte ad interim order for injunction was granted by a co-ordinate bench of this High Court. Pursuant to an order passed by the Hon'ble Jharkhand High Court dated September 21, 2021 granting bail to the accused directors both of them were finally released on bail on September 28, 2021. The interim injunction order was extended on October 7, 2021 by the learned single judge till November 30, 2021. Hence, the present application has been filed to vacate the interim order which was further extended till December 13, 2021 via order passed by this court dated December 9, 2021.
3. The nature of claim in C.S. No. 181, 182 and 183 of 2021 arises from agreements for supply of coal and after conversion of the same Lam Coke to be supplied to the plaintiff commensurate to the value of the coal

supplied to the defendant. The ad interim ex parte order of injunction granted in G.A. No. 1 in C.S. 180 of 2021 seeks to secure the plaintiff/petitioner by restraining the defendant from disposing/selling the goods in a money decree. All these applications were heard on the same date as G.A. No. 1 in C.S. 180 of 2021 and the timeline of filing these applications is also similar; only the claim amount for money decree sought is different and the same is as follows:

- a) C.S. No. 180 – 36 Lakhs
- b) C.S. No. 181 – 18 Lakhs
- c) C.S. No. 182 – 2.04 Crores
- d) C.S. No. 183 – 1.47 Crores

Accordingly, all the above matters were taken up together and a conjoint order is being passed with regard to the vacating applications filed.

Arguments:

4. Mr. Anirban Ray, counsel appearing on behalf of the defendant argues that it is apparent that the suit instituted by the plaintiff is for a money claim allegedly for price of goods sold. The claim of the plaintiff is at best an unsecured money claim. He also argues that the plaintiff has failed to make out a prima facie case against the defendant that warrants injunction on Lam Coke involved in the suit for securing any part of the money claim sought for in the suits. The Counsel for the defendant relies on ***Sunil Kakrania & Ors. –v- M/s. Saltee Infrastructure Ltd. & Anr*** reported in ***AIR 2009 Cal 260*** to contend that when the suit was only for

recovery of money, the immovable property cannot be the property in dispute in suit simply because the money claimed in the suit was allegedly payable for construction of such immovable property. Thus, clauses (a) and (c) of Order 39 Rule 1 are rendered inapplicable. He further submitted that there being no specific averment in the plaint or any documents to actually indicate that the defendant intended or threatened to remove or dispose of its property so as to defraud its creditors, clause (b) of Order 39 Rule 1 would also not apply. Relevant paragraph of the judgement cited by him is delineated below:

“23. In a suit for recovery of specific amount of money, the plaintiff is not remediless and the legislature has enacted the provisions of Order 38 and Rule 5 thereof prescribes the circumstances when the Court can order attachment before judgment by way of interim measure. Such provision is quoted below :

“5. Where defendant may be called upon to furnish security for production of property.— (1) Where at any stage of a suit, the Court is satisfied, by affidavit or otherwise, that the defendant, with intent to obstruct or delay the execution of any decree that may be passed against him,—

(a) is about to dispose of the whole or any part of his property, or

(b) is about to remove the whole or any part of his property from the local limits of the jurisdiction of the Court, the Court may direct the defendant, within a time to be fixed by it, either to furnish security, in such sum as may be specified in the order, to produce and place at the disposal of the Court, when required, the said property or the value of the same, or such portion thereof as may be sufficient to satisfy the decree, or to appear and show-cause why he should not furnish security.

(2) The plaintiff shall, unless the Court otherwise directs, specify the property required to be attached and the estimated value thereof.

(3) The Court may also in the order direct the conditional attachment of the whole or any portion of the property so specified.

(4) If an order of attachment is made without complying with the provisions of sub-rule (1) of this rule, such attachment shall be void.”

In the case of *Raman Tech & Process Eng. Co. v. Solanki Traders* reported in (2008) 2 SCC 302, the Supreme Court had occasion to consider the scope of Order 38, Rule 5 of the Code and in such circumstances made the following observations about its scope.

“5. The power under Order 38, Rule 5, CPC is a drastic and extraordinary power. Such power should not be exercised mechanically or merely for the asking. It should be used sparingly and strictly in accordance with the Rule. The purpose of Order 38 Rule 5 is not to convert an unsecured debt into a secured debt. Any attempt by a plaintiff to utilise the provisions of Order 38, Rule 5 as leverage for coercing the defendant to settle the suit claim should be discouraged. Instances are not wanting where bloated and doubtful claims are realised by unscrupulous plaintiffs by obtaining orders of attachment before judgment and forcing the defendants for out-of-Court settlements under threat of attachment.

6. A defendant is not debarred from dealing with his property merely because a suit is filed or about to be filed against him. Shifting of business from one premises to another premises or removal of machinery to another premises by itself is not a ground for granting attachment before judgment. A plaintiff should show, prima facie, that his claim is bona fide and valid and also satisfy the Court that the defendant is about to remove or dispose of the whole or part of his property, with the intention of obstructing or delaying the execution of any decree that may be passed against him, before power is exercised under Order 38. Rule 5. CPC. Courts should also keep in view the principles relating to grant of attachment before judgment. (See *Premraj Mundra v. Md. Manech Gazi* for a clear summary of the principles).”

(Emphasis given by us)

25. Applying the aforesaid principles to the facts of the present case, we find that the statement that has been made in the application for attachment before judgment was that the defendant is in ruinous condition and that if the decree was passed in the suit, the plaintiff would not be in a position to execute the decree if the defendant was

able to transfer or alienate the property mentioned. On the basis of such vague allegation, in our view, no order or direction to give security or attachment can be passed as held above. There is even no allegation that the defendant is trying to remove or dispose of its properties in order to obstruct or delay the execution of the decree that may be passed against it.

32. In the case before us, the plaintiff wants an injunction restraining the defendant from transferring or alienating his own property over which the plaintiff has no right or for attaching the said property. An owner of a property has unrestricted right of alienation and such power cannot be curtailed unless law provides for putting any such restriction. Section 94 of the Code which is in the substantive part of the Code (as opposed to the procedural part) gives power to the Court to restrict such substantive right of an owner in the circumstances mentioned in the Schedule of the Code (the procedural part of the Code) of which Order 38 and Order 39 are inter alia part. If those circumstances under O. 38, 39 do not exist, the Court in exercise of inherent power cannot pass any order the effect of which would be to interfere with the substantive right of a litigant as was the case in the case of *Padam Sen* (supra). Therefore, the prayer of the plaintiff in these appeals cannot be granted in exercise of inherent power of a Court because it will have overriding effect over the substantive right of the defendant over its property. We, thus, find that the decision in the case of *Manohar Lal* (supra) does not help the plaintiff in any way in view of the nature of relief claimed in this suit.”

5. Counsel for the respondent relies on another judgement passed by this Hon'ble Court in ***Kohinoor Steel Private Limited –v- Pravesh Chandra Kapoor*** reported in ***AIR 2011 Cal 29*** wherein it was held that a vague allegation that the defendant is unable to pay its debts to the creditors is not sufficient to give security or injunction in the form of attachment.

Relevant paragraph of the judgement is extracted below:

“23. Applying the aforesaid principles to the facts of the present case, we find that the sum and substance of the allegation that has been made in the application for temporary injunction was that the defendant is in a penurious condition, that it is unable to pay back its debts to the creditors and that if the decree was passed in the suit, the plaintiff would not be in a position to execute the decree if the defendant was able to transfer or alienate the property mentioned in the application. On the basis of such vague allegation, in our view, no

order or direction to give security or injunction in the form of attachment can be passed as held above. The names of the alleged creditors whose debts the defendant is unable to pay have not been disclosed. Simply because in the overdraft account of the banks, there is no credit balance, such fact does not necessarily imply that the defendant is unable to pay its debts when it is the finding of the learned Trial Judge that the profit of the defendant in current financial year is about Rs. 81.89 lakhs. There is even no allegation that the defendant is trying to remove or dispose of its properties in order to obstruct or delay the execution of the decree that may be passed against it. The goods having been sold and delivered on acceptance of 90% of the price and the dispute having been raised over the balance 10% and the bank-guarantee to the extent of that 10% having been enforced by the defendant, at this stage the plaintiff can in no case claim ownership over the goods in question. Whether the balance amount is at all payable according to the conditions of the contract in the facts of the present case and whether the defendant was justified in invoking the bank-guarantee, are the facts to be adjudicated in the suit. The learned Single Judge after recording in the order impugned that the profits of the defendant for the year 2008-09 before payment of tax is Rs. 81.89 lakh treated such fact as a discredit to the defendant because according to the learned Single Judge, the said amount was less than the profits of the defendant for the previous year and as the claim of the plaintiff on account of 10% balance price is Rs. 75 lakh, the learned Trial Judge was of the opinion that it was a fit case for passing the order of injunction.”

6. Mr. Reetobrata Mitra, counsel appearing for the plaintiff submits that the respondent's financial constraints are abuzz in the market and the plaintiff apprehends that the respondent is avoiding its legitimate money claims due to such constraints. The second limb of the plaintiff's argument is that coke is a perishable product and if coke is kept in the open it would gather moisture and would wither and gather ash. He also states that coke is a fast selling product which can be easily sold in the open market. Finally, it is argued by the plaintiff that Mr. Anil Goel who controls the business of the defendant company is under investigation by the Enforcement Directorate and other authorities and has been arrested on several occasions.

7. Counsel for the plaintiff relies on a judgment passed by this court in ***Santosh Promoters Pvt. Ltd. -v- Intrasoft Technologies Ltd.*** reported in **2017 (1) CHN Cal 189** wherein it was held that while considering the application for temporary injunction, the Court is only required to ascertain as to whether a prima facie case has been made out by the plaintiff in the suit. The court observed that prima facie case means an arguable case which the court is required to resolve and is distinguishable from a full-proof case. The ultimate relief claimed by the plaintiff in the suit should not be frustrated. Relevant paragraphs of the judgement are extracted below:

“28. Simultaneously if we consider the provisions contained in Order 39 Rule 1(b), of the Civil Procedure Code we find that while passing an order of injunction, the Court is not required to find out as to whether there is every possibility of passing a decree in favour of the plaintiff in the suit. While considering the application for temporary injunction, the Court is only required to ascertain as to whether a prima facie case has been made out by the plaintiff in the suit. Prima facie case means an arguable case meaning thereby that a reasonable dispute is raised before the Court which the Court is required to resolve ultimately in the suit. A prima facie case is distinguishable from a full-proof case. When the Court finds that a prima facie case is made out by the plaintiff then the Court passes an order of injunction so that the ultimate relief which is claimed by the plaintiff in this suit is not frustrated and the decree which may be passed in the suit will remain non-executable.

34. However, the extent of liability of the defendant to pay service charges on rent can be ascertained by the Court, only after some additional exercise is made by the Court in course of hearing of the suit. The exact liability which the defendant is required to bare on such account can be ascertained by the Court, only when the parties lead their evidence in support of their respective claims with suit. Before passing decree, the Court will have to find out the proportionate liability of the defendant on such head as per the said agreement. The amount of money payable by the defendant on this accounts is variable amount which varies from time to time depending upon the

rate levied by the Municipal authority on account of service charge on rent from time to time. Thus, we find that the major part of the liability of the defendant is ascertainable with reference to the agreement itself. The amount which is claimed by the plaintiff from the defendant on account of rent, infrastructure user charges and damages for delay in shifting is a substantial amount. If the Court finds that the defendant intends to transfer his property being the 3rd Floor of the said premises and leaves the jurisdiction of the Court with the sale proceeds, to defraud the plaintiff, the Court should not hesitate to pass temporary injunction restraining the defendants from transferring his property during the pendency of the suit. In the instant case, we find that the plaintiff stated in the plaint that the defendant was trying to transfer the said property to a stranger with the sole intention of defrauding the plaintiff and the other creditors. If the pleading of the plaintiff as a whole is considered, we are of the view that a prima facie has been made out by the plaintiff for going to trial. If the defendant is allowed to transfer his property as mentioned in the schedule of the temporary injunction application during the pendency of the suit with an intent to defraud the plaintiff to whom the defendant is liable to pay such huge amount, it will not be wise for the Court to refuse to grant ad interim injunction as in case, ad interim injunction is refused and the plaintiff succeeds in transferring the suit property during the pendency of the suit, then the object of granting injunction under Order 39 Rule 1(b) will be defeated in the instant case.”

Analysis and Conclusion:

8. I have heard the counsels appearing for both the parties and perused the materials placed on record. The provisions under which the plaintiff sought the relief of ad interim ex-parte injunction dated September 16, 2021 must be delineated before dealing with the cases relied on by both the parties involved in the present suit for deciding this application. Order 39 Rule 1 of the Code of Civil Procedure, 1908 that deals with granting of temporary injunction in a suit is as follows:

“1. Cases in which temporary injunction may be granted

Where in any suit it is proved by affidavit or otherwise--

(a) that any property in dispute in a suit is in danger of being wasted,

damaged or alienated by any party to the suit, or wrongfully sold in execution of a decree, or

(b) that the defendant threatens, or intends, to remove or dispose of his property with a view to defrauding his creditors,

(c) that the defendant threatens to dispossess, the plaintiff or otherwise cause injury to the plaintiff in relation to any property in dispute in the suit, the Court may by order grant a temporary injunction to restrain such act. or make such other order for the purpose of staying and preventing the wasting, damaging, alienation, sale, removal or disposition of the property or dispossession of the plaintiff, or otherwise causing injury to the plaintiff in relation to any property in dispute in the suit] as the Court thinks fit, until the disposal of the suit or until further orders.”

9. Upon consideration of the provisions contained in Order 39 Rule 1 of Civil Procedure Code it could be observed that passing of an ad interim injunction order in respect of non-suit property is not permissible under O.39 R.1 (a) and (c), but the power of Court to pass such interim order in respect of any property which is not the subject matter in dispute is allowed under O.39 R.1 (b) and the same could be exercised even when a money claim is being sought in the suit if certain conditions are met.
10. In the case of **Sunil Kakrania (supra)**, relied on by the defendant/respondent, the money claim of the plaintiff was with regard to

construction expenses incurred by it for development of the suit property. The Court while interpreting Order 39 Rule 1 held that the subject matter of the suit in that case was the money claim and in such a case an immovable property cannot be “the property in dispute” and therefore, clauses (a) and (c) of Order 39 Rule 1 cannot have any application. However, Clause (b) of Order 39 Rule 1 may be applicable for grant of temporary injunction if its conditions are fulfilled. Relevant paragraphs of the judgement are quoted below:

“20. After hearing the learned counsel for the parties and after going through the materials on record, we find that the suit is one for recovery of money and in the plaint, the description of the building constructed by the plaintiff has been described in Schedule ‘A’ with the averment in the plaint that the same was yet to be handed over to the defendants and was in possession of the plaintiff. The Schedule ‘B’ reflects the calculation of the claim of the plaintiff. Thus, the Schedule ‘A’ cannot be said to be “property in dispute in suit” within the meaning of Order 39, Rule 1 of the Code as subject-matter of the suit is really the recovery of Rs. 1 crore and odd claimed in the plaint. In a simple suit for recovery of money, an immovable property cannot be “the property in dispute in suit” simply because the money claimed in the suit is allegedly payable for construction of such immovable property.

21. Once we hold that in a simple money suit, an immovable property, for the construction of which the money is allegedly payable by the defendant, cannot be the “property in dispute in the suit”, clauses (a) and (c) of Order 39, Rule 1 cannot have any application and clause (b) may be applicable provided the condition mentioned therein is present. In this case, there is no averment in the plaint or the application for injunction that the defendant intended or threatened to remove or dispose of his property with a view to defrauding his creditors and even no name of any creditor has been given. Therefore, Order 39, Rule 1 has no application to the facts of the present case.”

11. In the case of ***Kohinoor Steel (supra)***, it was observed by the court that in a money suit, the court in the exercise of powers conferred under Order 39 Rule 1(b) of the Code can restrain a defendant from disposing of his

property which is not the subject matter of the suit if it appears that the defendant threatened or intended to dispose of his property with a view of defrauding his creditors. The court did not dispute the said provision and held that averments must be made by the plaintiff to that effect otherwise the relief cannot be granted by invoking Order 39 Rule 1(b). Relevant paragraph of the judgement is presented below:

“27. In the case of *Albert Judah Judah* (supra), relied upon by Mr. Mitra, a learned Single Judge of this Court in paragraph 16 of the judgment held that in a money suit, the Court in exercise of power conferred under Order 39 Rule 1(b) of the Code can restrain a defendant from disposing of his property which is not the subject-matter of the suit if it appears that the defendant intended or threatened to dispose of his property with a view of defraud his creditors. We do not for a moment dispute the said provision and we have already indicated that in this case, there is no averment in the application for injunction in terms of Order 39 Rule 1(b) of the Code that the defendant threatened or intended to dispose of his property with a view to defraud his creditors. Thus, the said decision does not help the plaintiff in any way.”

12. After going through the application for vacating the ad interim order filed by the defendant/respondent in GA No. 2 of 2021 the new facts that emerge reveals that the respondent/defendant had lodged an FIR against the plaintiff and its directors from a sister concerned firm namely Ayesh Coal Trading Company on August 21, 2021 for offences allegedly committed by the plaintiff. In this case, the directors of the plaintiff companies namely Hemant Goyal and Anil Kumar Goyal had been arrested by the police on September 10, 2021. It may be noted here that the plaint was affirmed on September 6, 2021 and G.A. No.1 of 2021 was filed on September 9, 2021. Thereafter, when the matter was taken up by the single judge on September 16, 2021 an interim order was passed. It is

to be noted that on the date the ad interim ex-parte order was passed the directors of the plaintiff company were in jail and this fact was not brought forward by the plaintiff before the co-ordinate bench that granted the ad interim ex parte injunction.

13. The contention of the defendant/respondent that the demand notice and subsequent suit was filed as a counterblast to the criminal complaint filed by the defendant/respondent against the directors of the plaintiff cannot be ignored. Furthermore, it is clear from a reading of the plaint that the plaintiff is only seeking a money decree in the plaint and is not seeking specific performance of the contract. Hence, the principles enunciated in ***Sunil Kakrania & Ors. (supra)*** are applicable to this case.

14. In the case of ***Santosh Promoters (supra)***, relied on by the plaintiff/petitioner, the court granted injunction to the plaintiff seeking recovery of the outstanding amount which had become due from and payable by the defendant. That case specifically dealt with a crystallised and ascertained money claim; the instant case is different as no crystallisation has taken place and therefore it is distinguishable on facts. The case made out by the plaintiff in its application bearing G.A. No. 1 of 2021 is that Mr. Anil Goel who controls the business of the defendant company is under investigation by the Enforcement Directorate and other authorities and has been arrested on several occasions. It was further submitted by the plaintiff that there is a grave urgency for granting an injunction on Coke that has been supplied by the plaintiff and the

defendant is required to be restrained by an order of injunction. None of the above contentions made by the plaintiff alleges that the defendant/respondent intended to defraud the plaintiff, thus the principles that emerge from ***Kohinoor Steel (supra)*** with regard to Order 39 Rule 1(b) are applicable to the case at hand. Since no clear averments with regard to defrauding the plaintiff have been made and proved, relief under Order 39 Rule 1 (b) cannot be granted.

15. When in the plaint the plaintiff is seeking a simplicitor money decree, there is no reason to grant an injunction on goods that were to be delivered to the plaintiff as the plaintiff does not seek a decree for specific performance. The law is settled with regard to granting of injunction in case of a money decree and unless a very strong prima facie case is made out with respect to defendant intending to defraud the plaintiff, no injunction can be granted against the property of the defendant nor can the defendants be asked to secure the plaintiff in a money decree suit.

16. I would also like to point out that in a judgement delivered by this court in ***Tata Chemicals Ltd. -v- Kshitish Bardhan Chunilal Nath and Ors***, reported in ***AIR (2019) Cal 353***, I have held that in fit cases wherein a case for fraud is made out, Order 39 Rule 1(b) would apply. However, it is to be noted that in that case the factual aspects indicated a clear case of fraud that had been admitted by the defendants and the quantum of money claim was also ascertained and liquidated. However, in the present case, the allegations of defrauding the plaintiff are ambiguous and vague

and there is a clear denial of the liability by the defendant. Furthermore, in the present case it is clear that both parties are at loggerheads and have filed cases against each other, and therefore, the case being made out by the plaintiff is not at a high pedestal. In such a case, I am of the view that neither an injunction can be granted nor should the defendant be directed to secure the amount of money claim at this stage.

17. Furthermore, it is to be noted that when the matter was moved on September 16, 2021 before the learned single judge, the fact of the directors of the plaintiff company being detained based on a complaint filed by a sister company of the defendant was not brought before the court. In light of the same, it appears that the ad interim ex-parte order was obtained on suppression of material facts and the plaintiff/petitioner did not come with clean hands. The principle of *uberrima fides* is applicable when one is seeking an ad interim injunction and it is clear that the principle was not followed in this present case. Furthermore, as it is pointed out by me, the suit being a suit for a money decree, injunction of goods of the defendant cannot be granted. Furthermore, the statement in the plaint that the person controlling the defendant company is under investigation by government authorities does not by itself lend credence to the fact that the defendant company intended to defraud the plaintiff. For Order 39 Rule 1 (b) to apply, it is necessary that more facts are brought before the courts which are definitive and crystallised to show that the defendant intends to defraud the plaintiff. Such not being the case, the ad interim ex-parte interim order dated September 16, 2021 is vacated.

18. To summarise the above discussion with regard to application of the law of temporary injunction under Order 39 Rule 1 following conclusions could be drawn as follows:

- A. In a simple money suit where no specific performance is being sought, the money due or payable on the property cannot be “the property in dispute of the suit” for the grant of relief under Order 39 Rule 1 (a) and (c).
- B. In order to attract the application of Order 39 Rule 1 (b), the allegation to defraud the plaintiff must be clearly and unambiguously pleaded by the plaintiff and a clear case of fraud being played upon the plaintiff must be established.
- C. For grant of ad interim injunction the principle of *uberrima fides* is applicable. The plaintiff must approach the court with clean hands and must disclose the facts which are material to be considered by the court before granting an ad interim relief under Order 39 Rule 1.

19. In light of the above discussions, the applications for vacating being G.A. No. 2 of 2021 in C.S. No. 180, 181, 182 and 183 are allowed and the ad interim orders passed in the four matters are vacated.

20. I would like to appreciate the painstaking efforts and advocacy displayed by Mr. Anirban Ray appearing for the defendant/respondent and Mr. Reetobrata Mitra appearing for the plaintiff and thank them for their valuable inputs and assistance in this matter.

21. Urgent Photostat certified copy of this order, if applied for, should be made available to the parties upon compliance with the requisite formalities.

(Shekhar B. Saraf, J.)