

Form No. J(2)

In the High Court at Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present: The Hon'ble Justice Sabyasachi Bhattacharyya
And
The Hon'ble Justice Sandip Kumar De

FMAT No. 246 of 2026
+
CAN 1 of 2026

Anil Jain and another
Vs.
Mina Jain and others

For the appellants : Mr. V. V. Sastry,
Mr. Rahul Poddar, Advs.

For the respondents: Mr. Ivan Roy, Adv.

Heard on : 17.09.2026.

Judgment on : 17.09.2026.

Sabyasachi Bhattacharyya, J.:-

1. The ambit of the appeal is short.
2. In a partition suit filed by the plaintiffs/appellants, the appellants sought temporary injunction.
3. Learned counsel for the plaintiffs/appellants submits that, by the impugned order, although the learned Trial Judge adverted to the case of both the parties and accepted the contentions of the appellants, in the final analysis, the learned Trial Judge merely directed both parties to maintain *status quo* in respect of possession of the suit property; whereas the specific prayer of the appellants was not only in respect of

their possession but also regarding creation of third party interest as well as protection of their right of ingress and egress to the suit property.

4. Learned counsel appearing for the defendants/respondents counters such submission by arguing that in the garb of injunction, the plaintiffs/appellants are seeking to encroach upon a common open courtyard which is a part of the suit property.
5. Moreover, it is submitted that there are separate pathways and entrances to the respective portions of the suit property in occupation of each of the parties.
6. Thus, it is submitted that since in any event, the respondents are not disturbing the ingress and egress of the appellants, no such injunction ought to be passed.
7. On a perusal of the impugned order, we find that the learned Trial Judge unambiguously accepted the case made out by the plaintiffs/appellants.
8. Moreover, in the written objection filed by the defendants/respondents to the temporary injunction application in the Trial Court, we do not find any specific mention of the arguments now sought to be advanced before us. Rather, the respondents admitted the position that both the parties are in possession of certain portions of the property and that the property is a joint property between the parties.
9. Moreover, from the impugned order, we do not find any reason as to why the other prayers for injunction as made by the plaintiffs/appellants, than in respect of possession, were refused,

despite the learned Trial Judge having accepted the legal yardsticks for grant of injunction to have been satisfied.

10. Accordingly, FMAT No. 246 of 2026 is allowed, thereby modifying the impugned order dated June 29, 2026 passed by the learned Civil Judge (Senior Division) at Sealdah, District-South 24-Parganas, in Title Suit No. 39 of 2026 and restraining both parties by an order of injunction from selling, transferring, alienating, encumbering and/or creating any third party interest in respect of the suit property and/or from disturbing each other's possession as well as from obstructing the ingress and egress of each other in respect of the suit property till disposal of the suit.
11. It is expected that the learned Trial Judge shall make endeavour to dispose of the suit as expeditiously as possible without being unduly influenced by any of the observations made above.
12. CAN 1 of 2026 is disposed of as well.
13. There will be no order as to costs.
14. Urgent photostat certified copies of this judgment, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)

I agree.

(Sandip Kumar De, J.)