

06.10.2020

Court No. 8
Item No.2
Subha

In The High Court At Calcutta

**Civil appellate jurisdiction
Appellate Side**

F. M. A. T No.330 of 2020

Sri Saibal Kumar Sinha

-vs-

Sri Ashish Kumar Sinha and 2 ors.

with

IA No. CAN No.1 of 2020

(Old No. CAN No.2902 of 2020)

(CAN 1/20 is not in the file)

with

CAN 2 of 2020

Mr. Probal Kumar Mukherjee, sr. adv
Mr. Arnab Mukherjee ...for the appellant.

Mr. Joydip Kar,
Mr. Sourav Kumar Mukherjee
..for the plaintiff/respondent no.1.

The point involved in this appeal is very short.
With the consent of learned appearing counsel, we treat
this appeal as on the day's list and dispose of the same
by the order dispensing with all formalities.

This appeal arises from a judgment and order
dated 1st February, 2020 passed by the learned court
below in a Partition and Administration suit affirming
an ad interim order of injunction made by the said
court on 7th January, 2015 restraining the appellant
from transferring or otherwise dealing with the suit
property.

The appellant, one of the sons of Anima Rani

Sinha since deceased, one of the parties in the said suit claims that by executing a deed of gift dated 21st August, 2013 his mother transferred the entire suit property to him. She died on 27th June. 2014.

At the time of passing of the ad interim order it was a simple partition and administration suit. Subsequently in 2018, the plaint was amended challenging the deed of gift as void.

Mr. Mukherjee, learned senior counsel appearing for the appellant submits that this order of injunction should be vacated, as there is no merit in the challenge to the deed of gift.

We are of the opinion that since the deed of gift is under challenge in the suit, the order of injunction is prima facie sustainable. However, it is absolutely necessary to expedite the suit. We give liberty to the appellant to take all steps before the court below for the purpose of expeditious disposal of the suit.

The learned court below shall on such steps taken by the appellant endeavour so that the suit is decreed not later than two years from date. It will be open to Mr. Mukherjee's client to make a claim before the learned court below to compensate him for the loss of enjoyment of the property in the event the plaintiff/respondent fails in his challenge to the said deed of gift. If and when such claim is made the

learned court below shall consider the same in accordance with law.

Accordingly, the appeal (FMAT 330 of 2020 and the connected applications(CAN 1 of 2020 & CAN 2 of 2020) are disposed of.

[I.P. Mukerji, J]

[Hiranmay Bhattacharyya, J]