

23.11.2021
SL No.1
Court No.8
(gc)

FMA 672 of 2020

**Mr. Biswanath Agarwal & Anr.
Vs.
Mr. Sanwarmal Sharma & Ors.**

(Via Video Conference)

**Re: CAN 1 of 2019
(Old No: CAN 9830 of 2019)**

It appears that CAN number mentioned in the order dated 16th November, 2021 appears to be wrong as CAN 1 of 2019 (Old No: CAN 9830 of 2019) which relates to a different matter being FMA 671 of 2020 in which the said application was filed. The said FMA 671 of 2020 along with the application being CAN 1 of 2019 (Old No: CAN 9830 of 2019) were dismissed on 18th November, 2021.

In view thereof, the earlier order dated 16th November, 2021 is corrected by deleting the application being CAN 1 of 2019 (Old No: CAN 9830 of 2019). The server copy shall be corrected accordingly.

Let a copy of order dated 18th November, 2021 being FMA 671 of 2020 be kept with the record for the sake of convenience and clarity.

Re: FMA 672 of 2020

The appellants are not represented nor any accommodation is prayed for on their behalf.

The appeal and the connected application appeared before the Coordinate Bench on 16th November, 2021 when also none appeared on behalf of the appellants. This

matter was directed to put up under the heading “For Order”. We have perused the order impugned. The order was passed in connection with an application for extension of interim order. The opposite parties also appeared to have filed an application under Order 39 Rule 4 of the Code of Civil Procedure for vacating the order of status quo that was passed initially.

The defendant Nos.3 and 4 of the suit are the applicants to the file for vacating of the interim order. It appears from the impugned order that the defendant Nos.3 and 4 have acquired undivided 2/3rd share in the property which was suppressed by the plaintiffs at the time of moving interim prayer for injunction as well as in the pleadings and orders passed in the earlier T.S. No. 176 of 2019 which had a bearing on the suit filed by the plaintiffs. The order in the earlier suit with regard to the order of status quo in relation to the suit property was not mentioned by the plaintiffs. It was because of such suppression of material fact, the order was recalled.

We do not find any infirmity in the order passed by the learned Trial Judge. Accordingly, the appeal being FMA 672 of 2020 stands dismissed.

Urgent Photostat certified copy of this order be supplied to the parties on usual undertaking.

(Ajoy Kumar Mukherjee, J.)

(Soumen Sen, J.)