

**FMAT 220 of 2021
with
IA No. CAN 1 of 2021**

Sumit Mukherjee & Ors.

- Versus -

Smt. Mina Gupta & Ors.
(Through Video Conference)

**Mr. Avijit Roy
Mr. Abhradip Maity
Ms. Pooja Basak
Ms. Amrita Maity**

.....For the appellants

**Md. Galib
Mr. Souradipta Banerjee
Md. Hossain
Mr. Shaunak Ghosh**

.....For the respondent nos. 1 & 2

Learned counsel appearing for the appellants has very fairly submitted that along with the application for injunction, an application for appointment of Commissioner ought to have been made to ascertain the nature and character of encroachment, if any.

We are of the view that unless there is a prayer for delivery up and cancellation of the documents infringing the rights of the appellants over the suit property, the reliefs in the suit may not be complete.

At this stage, we are not interfering with the order passed by the learned trial Judge.

The appeal and the application are accordingly dismissed.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties on the usual undertakings.

(Saugata Bhattacharyya, J.)

(Soumen Sen, J.)