

17.11.2021

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FMA 556 of 2021  
with  
CAN 1 of 2021  
(application not in file)  
(via video conferencing)

Dinesh Chandra Dutta  
Vs.  
Pronab Kumar Dutta & Ors.

Mr. Bwitendra Banerjee  
Mr. Devdutta Pathak  
..... for the appellant

Learned Counsel appearing for the appellant submits that the court below while restraining the parties from creating third party interest and/or changing the nature and character of the suit property had failed to protect the possession of the appellant. The suit is one for partition and it is contended that the appellant is in possession of the suit property.

As the order assailed is an ex parte ad interim order and the interest of the appellant is substantially protected, we chose not to entertain the appeal. We, however, observe it shall be open to the appellant to canvas the issue with regard to protection of his possession in the suit property before the learned court below during the hearing of the injunction in accordance with law.

With this observation, the appeal is disposed of.

In view of disposal of the appeal, connected application being CAN 1 of 2021 is also disposed of.

**(Bivas Pattanayak, J.)**

**(Joymalya Bagchi, J.)**