

22.09.2021
ASR(79)

F.M.A.T. 499 of 2021
With
CAN 1 of 2021

(Via Video Conference)

Paramesh Banerji
-versus-
Smt. (Dr.) Ruma Bhattacharya & Ors.

Mr. Jishnu Chowdhury
Mr. Ratul Das
Mr. Shwetaank Nigam
.....for the appellant.

Mrs. Sohini Chakraborty
Miss Prajaaini Das
.....for the respondent no. 1.

Mrs. Chakraborty, learned Advocate for the respondent no. 1 takes the point of maintainability. She submits that this appeal is not competent before this Court.

The suit is valued at Rs. 61,000/- (Rupees sixty one thousand). The impugned order is passed by the learned Civil Judge (Senior Division). Section 21 of The Bengal, Agra and Assam Civil Courts Act, 1887 makes it explicit that appeal from an order of the civil judge (senior division) shall be to the District Judge, where the value of the original suit does not exceed one Lakh and fifty thousand rupees.

In those circumstances, the objection regarding maintainability of the appeal is sustained. The appeal

and the connected application are dismissed with express liberty to the appellants to prefer the self-same appeal on the self-same grounds before the appropriate court and also with a request to the learned judge of the court below to decide the interim application expeditiously.

The department is directed to return the certified copy of the impugned order to the advocate-on-record for the appellant after his furnishing a true photocopy of the same which shall be retained in the records of this court.

(I.P. MUKERJI, J.)

(ANIRUDDHA ROY, J.)