

31.03.2022

Sl. 6

Ct.No. 03

Amalranjan

(Via Video Conference)

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

RVW 2 of 2022

In

FA 339 of 2013

Smt. Usha Singh & Ors.

Vs.

Pradip Chowdhury & Ors.

With

CAN 7 of 2021

Mr. Saurabh Guhathakurata

Mr. Bikash Kumar Roy

Mr. Sourav Sarkar

Mr. S. Nag

...for the applicants

Mr. Hirak Kumar Mitra, Sr. Adv.

Mr. Debdatta Sen

Mr. S. Chatterjee

Mr. Malay Kumar Seal

...for the respondents

What is pending in this court is a first appeal from a judgment and decree of the learned court below dismissing a partition and administration suit.

The applicants are third parties. They claim that their father since deceased was put into possession by the co-sharers of a part of the property, which is the subject matter of the partition and administration suit in pursuance of

an agreement for sale dated 7th July, 2007 between them.

Mr. Guhathakurata, learned advocate appearing for the applicants submits that although his clients were put in possession of the property their title could not be perfected because of non-execution of conveyance by the vendors.

It appears that the applicants approached the District Consumer Forum which on 15th September, 2014 directed the parties to this partition and administration suit to execute a conveyance in favour of the applicants.

On the strength of this order, the applicants wanted to be impleaded in this appeal.

We are afraid that they have no such right at this point of time.

The scope of this appeal from a decree dismissing the partition and administration suit is restricted to the rights of the parties *inter se* in the subject property including the right to claim division thereof. The applicants admittedly do not have title to the property. They claim a possessory right in the property together with the right to obtain conveyance thereof by virtue of the said order of the Consumer Forum. They have to exercise their alleged right independently

and not by their impleadment in this appeal or suit.

We have not gone into the merits of the disputes between the applicants and the respondents in this partition and administration suit. We only observe that the applicants are at liberty to exercise their alleged rights in an appropriate proceeding in an appropriate jurisdiction. We clarify that they are not bound by any order in this proceeding.

Hence, in this review application, we see no reason to set aside, interfere with, modify or in any other manner review our order dated 30th November, 2021 dismissing the application (CAN 5/2018 = Old CAN 1978 of 2018) for their impleadment in the partition and administration suit or in their appeal.

The review application is, thus, disposed of.

Re: FA /339/2013
With
CAN /7/2021

List this appeal along with the connected application CAN 7 of 2021 for hearing under the heading “short appeal” on 20th April, 2022.

(Aniruddha Roy,J.)

(I. P. Mukerji,J.)