

S/L 4
16.02.2022
Court No.8
SD

FMA 272 of 2019
With
CAN 1 of 2018
(Old CAN 7896 of 2018)
With
CAN 3 of 2020
(Old CAN 1625 of 2020)
With
CAN 4 of 2020
(Old CAN 2284 of 2020)
(Via Video Conference)

Indranil Choudhury & Anr.
Vs.
Amiya Kumar Choudhury & Ors.

Mr. A. Mitra
Mr. C. Gupta
Mr. B. Kumar
Mr. R. Baliyal

...for the Appellants.

Mr. Kushal Chatterjee
Mr. Avijit De

...for the Respondent Nos.1 to 5.

Mr. Samir Halder
Mr. Amit Singh

...for the Respondent No.6.

Mr. Ritwik Pattanayak

...for the Special Officer.

The appellant nos.2 and 3 and the respondent nos.3, 4, 5 and 6 are personally present in Court.

All the parties have filed their affidavits consenting to an order to be passed in favour of the respondent no.6. Such affidavits be kept with the record.

The appellant nos.2 and 3 on the earlier occasion has deposed that they have relinquished their shares in the suit property upon receipt of a sum of Rs.10 lakhs from the respondent no.6 and the respondent nos.1 to 5. During the deposition, which was recorded separately, an undertaking

for relinquishing their shares and receipt of consideration were duly acknowledged. To obtain the views of the other co-sharers, we have adjourned this matter till today.

All other co-sharers have filed their affidavits consenting the order proposed to be passed in view of relinquishment of the shares of the in the suit property in favour of the respondent no.6.

In view of the agreement between the parties, the suit is disposed of by recording the relinquishment of right, title and interest of the appellant nos.2 and 3 in the suit property in favour of respondent no.6. The other co-owners of the property have relinquished their right, title and interest in favour of the respondent no.6 by separate deeds.

In view of the affidavits of the parties filed in Court today, the appellants shall be entitled to encash the checks and/or bank orders.

Mr. Ritwik Pattanayak was appointed as Special Officer by an order dated January 16, 2020 to ascertain the nature and extent of the construction. Subsequently, on February 3, 2020 the Special Officer was directed to take physical possession of the property in question except the flat occupied by Smt. Mampi Paul and the portion occupied by the Animation Institution.

In view of the settlement arrived at between the parties, the Special Officer shall remove the padlocks and hand over the possession to the persons from whom he had

taken possession in presence of the advocates on record of the parties on February 19, 2022 at 11:00 a.m.

The Special Officer shall be entitled to further remuneration assessed at 1000 G.M.s to be shared by the appellants and the respondent no.6 in equal measure. The respondent no.6 shall communicate and/or intimate this order to the respective flat owners.

After handing over possession, the Special Officer shall stand discharged and all the parties shall cooperate with the Special Officer.

Department shall draw up the decree as expeditiously as possible and send it to the Collector for ascertainment of the stamp duty and the parties shall pay the required stamp duty only after which the final decree should be drawn up.

This order virtually disposes of the appeal and the connected applications.

Parties have agreed that in view of the aforesaid order, the suit may also be disposed of.

Accordingly, FMA 272 of 2019 along with CAN 1 of 2018, CAN 3 of 2020, CAN 4 of 2020 and the Title Suit No. 669 of 2018 are all disposed of.

In the earlier order, the case number was transcribed wrongly as FAT 272 of 2019 instead of FMA 272 of 2019.

Let this correction be incorporated in the order dated February 9, 2022 and the deposition recorded separately on that date.

(Ajoy Kumar Mukherjee,J.)

(Soumen Sen, J.)