

Item 6. 08-07-2022

FMA 2664 of 2007

sg Ct. 8

Subhransu Roy & Anr.
Versus
Ashok Roy & Ors.

(Through Video Conference)

The appellant is not represented.

The appeal is arising out of an judgment and order dated 10th May, 2006 passed by the learned Judge, Small Causes Court at Sealdah passed in Title Suit No. 6 of 2006, a suit for partition, declaration, permanent injunction and accounts.

The record shows that although the appeal was filed in August 2006 but no attempt was made to move the appeal.

The learned Judge, after consideration of the materials available on record allowed the application for injunction in part on contest. The opposite party nos. 1, 2 and 5 were restrained by an order of injunction restraining them from transferring, encumbering the scheudle A property till the disposal of the suit. The learned Judge has prima facie held that excepting the schedule A property the appellants have failed to establish any right in respect of B schedule property. Insofar as the schedule B property is concerned, the learned Trial Judge has accepted the contention of the opposite parties that one Sudhangshu Kr. Roy was the exclusive allottee of the said plot and he had partly constructed one building over the said land and Sudhangshu Kr. Roy never had any right, title and interest over the said property.

We are not aware of the present status of the suit. This

interim order continues till this date. We do not find any reason to interfere with the finding arrived at by the learned Trial Court on 10th May, 2006 in allowing the injunction application partly and only in respect of schedule A property. The views expressed by the learned Trial Judge were only prima facie and it should not influence the final decision.

However, we find from the status report of the suit made available to the Court that the suit was dismissed for default on 24th February, 2015 vide order No. 119.

In view of the aforesaid, the appeal stands dismissed. However, there shall be no order as to costs.

(Siddhartha Roy Chowdhury, J.)

(Soumen Sen, J.)