

Item- 165.	10-08-2022	FMA 1252 of 2015 CAN 1 of 2015 (old CAN 480 of 2015)
sg	Ct. 8	Rokia Bibi & Ors. Versus Abdul Hannan Khan & Ors.

The appellants are not represented nor any accommodation is prayed for on behalf of the appellants.

The latest status report produced by the department shows that the suit is fixed on 5th September, 2022 for amended plaint and steps upon defendant nos. 3/ka to 3/cha.

In the absence of the appellants, we are unable to find out the reason for delay in disposal of the suit. The parties are co-sharers. It appears that the defendants made substantial construction in the suit property. The plaintiffs and the defendant no.1 have 1/3rd interest each in the entire suit property. Considering the fact the defendants have raised construction without any initial resistance, any order of injunction restraining the said defendant to complete the construction may cause more inconvenience to the said defendant.

The order passed by the learned Trial Court allowing the construction in question on the suit land as stated in the application under Order 39 Rule 4 of Code of Civil Procedure dated 30th August, 2014 without claiming any equity and subject to the result of this partition suit, does not call for any interference. However, the suit is pending for more than eight years. We feel that the partition suit should be disposed of without further delay.

Accordingly, we direct the learned Civil Judge (Senior Division), First Court at Tamluk, Purba Medinipur to dispose of the suit as expeditiously as possible and preferably within a period of one year from the date of communication of this order by the learned Registrar Administration (L&OM).

The learned Trial Judge may give peremptory directions with regard to procedural matters in order to make the said suit ready for hearing and may frame time schedule for witness action and argument in the suit.

The parties shall strictly adhere to the time schedule to be framed by the learned Trial Court.

This order shall immediately be communicated to the learned Registrar Administration (L&OM) for doing the needful.

With the above directions, the appeal and the connected application are disposed of.

(Siddhartha Roy Chowdhury, J.)

(Soumen Sen, J.)