

10.05.2022
SL No.46
Court No.8
(gc)

**FMAT 48 of 2022
With
CAN 1 of 2022**

**Sk. Samiruddin & Ors.
Vs.
Abu Talebh Mollah & Ors.**

Mr. Probal Kr. Mukherjee, Sr. Adv.,
Ms. Shaoni Dey,
...for the Appellants.
Mr. Saikat Chatterjee,
...for the Respondent Nos.6 & 13.

By consent of the parties, the appeal and the application are taken up together and disposed of by this common order.

We have heard the learned Counsel for the parties. The appeal is arising out of an order passed in a partition suit. In our Order dated 23rd March, 2022, we have passed an interim order of injunction.

The learned Counsel for the respondents submits that they are not alienating and/or encumbering and/or transferring their share in the suit property. They want to use the property for their residential purpose.

In view of the aforesaid and for the reasons we have recorded in our Order dated 23rd March, 2022, we confirm the interim order passed on 23rd March, 2022. The said interim order shall continue till the disposal of the suit.

Any construction made by the respondents over the land under their occupation and possession shall not

create any equity in their favour and shall be subject to the result of the partition suit.

In view of the fact that the respondents have filed their written statement, we request the learned Trial Court to pass peremptory directions with regard to the procedural matters in order to make the said suit ready for hearing and dispose of the partition suit as expeditiously as possible without granting any adjournment to either of the parties unless it is avoidable and subject to the convenience of the learned Civil Judge (Senior Division), 3rd Court at Alipore.

Accordingly, the appeal being FMAT 48 of 2022 and the application being CAN 1 of 2022 stand disposed of.

However, there shall be no order as to costs.

Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Sugato Majumdar, J.)

(Soumen Sen, J.)