

3.
sg

24-03-2022

FMA 271 of 2022
CAN 1 of 2022

Ct. 8

Sankar Mondal
Versus
Swapan Debnath & Ors.

Mr. Debnath Ghosh, Adv.
Mr. Sandip Ghose,
Mr. Sarosij Dasgupta, Adv.
Mr. Subrata Das, Adv.
Mr. Debayan Ghosh, Adv.
...for the appellant

Mr. Aniruddha Chatterjee, Adv.
Mr. Arif Ali, Adv.
Mr. Rajiv Kumar, Adv.
...for the respondent no.1

Mr. Siddhartha Banerjee, Adv.
Ms. Soni Ojha, Adv.
Ms. Sambrita B. Chatterjee, Adv.
...for the respondent no.5

Mr. Deep Narayan Mukherjee, Adv.
...for the respondent nos. 6&7

The affidavit of service filed in Court is taken on record.
The affidavit of compliance of the order dated 8th March, 2022 and the supplementary affidavit disclosing the sale of books between 9th March, 2022 and 13th March, 2022 are also taken on record.

In view of the substantial compliance of our order dated 8th March, 2022, we feel that the injunction application is now required to be heard on merits by the trial court being uninfluenced by the observation made by us in our order dated 8th March, 2022. In order to secure the interest of the legal heirs of Late Narayan Debnath, the publisher/appellant shall print separate bills with serial numbers only to be used for the purpose of sale of the books over which they are claiming the right to publish and all

such particulars shall be disclosed in the pending proceeding.

The royalty payable out of such sale proceeds, shall be kept in a separate account subject to any order that may be passed by the learned Trial Court in the pending proceeding.

A copy of the said supplementary affidavit shall be filed on the pending proceeding before the Trial Court.

It would be open for the legal heirs of the author to file any appropriate affidavit/objection with regard to the supplementary affidavit to be filed in the said proceeding.

The Trial Court must ensure that during pendency of the probate proceeding, the interest of the legal heirs of the author is adequately protected.

We would request the learned Trial Judge to dispose of the application filed under Order VII Rule 11 of the Code of Civil Procedure first before deciding the injunction application on merits on other issues.

Since no affidavit-in-opposition is filed by the contesting plaintiff/respondent no.1 in the appeal, all allegations are deemed to have been denied.

The appeal being FMA 271 of 2022 and the application being CAN 1 of 2022 are accordingly, disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Ajoy Kumar Mukherjee, J.)

(Soumen Sen, J.)