

Item 39. 05-07-2022

FMA 1208 of 2015
CAN 1 of 2015 (old CAN 1396 of 2015)

^{sg} Ct. 8

Tapas Ranjan Das
Versus
Narayan Chandra Maity & Ors.

(Through Video Conference)

This matter appeared in the warning list on 29th June, 2022 and continued to appear in the list until it was transferred to the daily cause list today.

The appeal is arising out of an order dated 16th January, 2015 in connection with an application filed under Order 39 Rule 1 and 2 read with section 151 of the Code of Civil Procedure.

The plaintiff claims to be owner of the suit property by virtue of registered deed dated 22nd February, 2011. The plaintiff alleged that the suit property originally belonged to Sushil Kr. Pradhan, who later on transferred the same through the registered deed dated 21st June, 1997 to Dipali Nag. Dipali Nag thereafter transferred 2 2/5 decimals of plot no. 970 and 3 ½ decimals of plot no. 973 to the plaintiff by registered deed of sale dated 22nd February, 2011. The plaintiff claimed to have been in possession of the suit property since purchase and LRROR has been prepared in his name. The defendant contested the application by filing written objection and claimed the ownership over the suit property although the defendant admitted that Dipali Nag purchased 2 decimals of plot no. 970 with boundary but the plaintiff is claiming 2.4 decimals in the suit property.

On the basis of the submission and considering the materials on record, the learned Trial Judge arrived at a prima facie finding

that plaintiffs claimed 2.4 decimals of land in plot no. 970 and 3.5 decimals of plot no. 973. It has been rightly observed that whether the plaintiff has claimed excess share that can only be adjudicated after the final hearing the suit on appreciation of evidence. On such prima facie satisfaction that the plaintiff is in occupation of the suit property and the plaintiff has made out an arguable case on merits, the petition for injunction was allowed on contest on merits by affirming the interim order dated 16th January, 2015.

We find from the order that the suit was fixed for on 16th February, 2015 for framing of issues.

In the event the suit is not disposed of in the meantime, the learned Trial Judge is requested to dispose of the suit as expeditiously as possible without granting any adjournment to either of the parties.

The department shall communicate order to the learned Civil Judge (Senior Division), 2nd Court at Tamluk in Title Suit no. 270 of 2014 within one week from date for information, record and doing the needful.

The appeal and the application are dismissed. However, there shall be no order as to costs.

(Siddhartha Roy Chowdhury, J.)

(Soumen Sen, J.)