

**FMA 798 of 2022
With
CAN 1 of 2022**

**Asma Begum & Anr.
Vs.
The State of West Bengal & Ors.**

Mr. Bhagabat Chowdhury
Mr. Sk. Toslim Ali
Ms. Saba Parween

... ... for the appellants

This appeal is at the instance of the writ petitioners challenging the order of the learned Single Judge dated 4th April, 2022 whereby WPA 15795 of 2021 has been disposed of by holding that the petitioners' remedy is to seek enforcement of the order in the pending Civil Suit.

Learned counsel for the appellants submits that ingress and egress to the property of the appellants has been obstructed by the respondents, therefore the writ petition ought to have been maintained.

Having heard the learned counsel and on perusal of the record, it is noticed that undisputedly TS 38 of 2015 is pending before the competent Civil Court between the appellants and the private respondents wherein order of temporary injunction dated 12.03.2015 was initially passed by directing both the parties to maintain status quo regarding nature, character and possession as stood on the day of passing of the order of the scheduled mentioned property. Thereafter, the learned Trial Court by order dated 18.02.2016 had made the order absolute by directing the parties to maintain status quo till the

disposal of the suit. The said order of status quo is operating and in case if any of the parties acts in breach of the said order, then the proper remedy is to approach the concerned Court seeking appropriate relief.

This is specially so, as admittedly the dispute is between the co-owners of the property.

In the aforesaid circumstances of the case, we are of the opinion that the learned Single Judge has not committed any error in taking the view that the matter is purely of civil nature and the remedy lies in approaching the concerned Court in the pending Civil Suit.

Thus, we find no reason to interfere in this appeal. However, we hope that if the appellants approach the Civil Court then the matter will be taken up expeditiously.

The appeal and the connected application are accordingly disposed of.

(Prakash Shrivastava, C.J.)

(Rajarshi Bharadwaj, J.)