

DL. January
15. 31, 2022

Through Video Conference

F.M.A. 559 of 2021

Sri Bishnupada Ghosh & anr.

Vs.

Sri Ashok Ghosh & ors.

Ms. Deblina Lahiri,

Mr. Mrinmoy Chatterjee,

...for the appellants.

Mr. Parikshit Goswami,

...for the respondent no. 1.

Admittedly, the present appellants have made construction in an undivided property. It appears that misrepresentation was made by the appellants in obtaining the sanctioned plan from the concerned gram panchayet. The defendant no. 1/appellant no. 1 claimed to be the absolute owner of the property in question which could not have been done by reason of the fact that it is an undivided property in which the defendant no. 1 only had a share.

However, having regard to the fact that certain constructions have been made, we are not inclined to disturb such construction and to interfere with the discretion exercised by the learned trial judge in granting the injunction.

The appeal is, therefore, summarily dismissed under Order XLI Rule 11 of the Code of Civil Procedure.

However, keeping in view the relationship between the parties, the learned trial judge may refer the matter to mediation.

In view of dismissal of the appeal, nothing remains in

the application for stay filed under CAN 1 of 2021 and the same is also dismissed.

There will be no order as to costs.

(Soumen Sen, J.)

dns

(Ajoy Kumar Mukherjee, J.)