

25.11.2022
SL No.28
Court No.8
(gc)

FMAT 488 of 2014
CAN 1 of 2014 (Old No: CAN 4990 of 2014)

Kazi Md. Shahnawaj
Vs.
Saukat Ali & Ors.

This matter appeared in the warning list on 16th November, 2022 with a clear indication that the appeal shall be transferred to the daily list on 21st November, 2022.

The appellant is not represented nor any accommodation is prayed for on behalf of the appellant, although, the appellant has sufficient knowledge and notice of the listing of this matter. This appeal was filed in or around April, 2014 but since then no attempt has been made to move this appeal or the connected application. In spite of the order dated 28.04.15 by the Coordinate Bench, the defect has not been removed. The matter was kept pending as defective.

The appeal is arising out of an order passed by the learned Civil Judge (Senior Division), Arambagh, Hooghly in connection with an application praying for extension of ad-interim order. In the application, the plaintiffs have prayed for temporary injunction against the defendant Nos.1 to 15 and 33 to 35 restraining them from making any construction over the suit property described in Schedule Ka and Ka-1 of the plaint and also from

changing the status quo of the Ka Schedule suit property. The contention of the plaintiffs was that they have 6 ganda 1 kara and 1 kranti share in the suit property which is undivided and in which all the defendants excepting defendant Nos.10 to 15 and 38 are co-sharers. The defendants contested the said proceeding. The said application was filed in connection with a suit for partition. The learned Trial Judge has arrived at a finding that the plaintiffs could not establish that Ka-1 Schedule property is a specified property. On the contrary, it appears from the materials on record that Ka-1 Schedule property is a part and parcel of the Ka Schedule property. On such consideration, the prayer for injunction was disallowed.

We do not find any reason to interfere with the order passed by the learned Trial Judge. However, having regard to the fact that the Title Suit is pending since August, 2012 and in the event the said suit is still pending, we direct the learned Civil Judge (Senior Division), Arambagh, Hooghly to dispose of the suit as expeditiously as possible without granting any adjournment to either of the parties unless it is unavoidable.

With the aforesaid observation, the appeal and the connected application stand dismissed.

However, there shall be no order as to costs.

This order shall be immediately communicated to the learned Civil Judge (Senior Division), Arambagh, Hooghly in T.S. No.08/2012 for information and doing the needful.

(Uday Kumar, J.)

(Soumen Sen, J.)