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Ct-08

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FMA 1309 of 2021
with
I.A No. CAN 1 of 2021

Hemanta Naskar & Anr.
Vs.
Sahadeb Naskar

The appellants are not represented, nor any accommodation is prayed on behalf of the appellants.

The appeal has arisen out of an order dated 2nd March, 2021 passed by the learned Civil Judge (Senior Division), 1st Court at Howrah in Title Suit No. 129 of 2021 in connection with an application under Order XXXIX Rule 1 & 2 of the Code of Civil Procedure in a suit for partition, preemption, declaration and permanent injunction.

Learned Trial Judge on the basis of the materials available on record granted ad-interim order of injunction whereby the defendant nos. 12 and 13 were restrained from raising any obstruction in completing the construction work in the B schedule property as per the sanctioned plan of Gram Panchyat, in any manner whatsoever, till 1st April, 2021.

In absence of the appellants, it is not possible to ascertain whether the said ad-interim order of injunction was subsequently extended or not. However, on the basis of the materials on record, we are of the view that learned Trial Judge considering the prima facie and the balance of convenience and inconvenience granted the said ad-interim order of injunction in favour of the plaintiff and against the defendants.

However, we feel that in the event the injunction application is pending, the learned Trial Judge shall dispose of the injunction application within a period of two months without being influenced by the earlier order dated 2nd March, 2021 or the order passed by us.

In view of the above, FMA 1309 of 2021 is disposed of.

In view of disposal of the appeal, CAN 1 of 2021 is accordingly disposed of.

Let a copy of this order be communicated to the learned Civil Judge (Senior Division), 1st Court at Howrah for information and doing the needful through learned Registrar Administration (L & OM).

(Siddhartha Roy Chowdhury,J.)

(Soumen Sen, J.)

