

12 19.12.22

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION**

**F.M.A. 1117 of 2022
With
CAN 1 of 2022**

Mojam Ali Mondal & Ors.

Vs.

Ansar Ali and Ors.

**Mr. Asit Baran Raut
Mr. T.S. Raut**

... For the Appellants.

Re: CAN 1 of 2022

This appeal and application are entertained on the undertaking of advocate on record for the appellants/petitioners to file an affidavit of service in course of today.

None appears for the respondents.

The impugned judgement and order cannot be sustained for the following reasons.

First of all the application was entertained ex-parte when it ought to have been heard upon notice to the defendants.

S.D. Secondly, the order is without any reason. The order has serious consequences for the appellants.

Dispensing with all formalities we have entertained the appeal today.

We dispose of the appeal by setting aside the

impugned judgement and order.

The appellants/petitioners will immediately apply before the learned court below to prepone the returnable date of the application so that it is taken up at the motion stage not later than 14th January, 2023.

The case of the respondents/plaintiffs for an interim order shall be considered afresh by the learned court upon notice of hearing to the appellants/defendants and by a reasoned order.

The appeal and the connected application(CAN 1 of 2022) are disposed of.

(I.P. Mukerji, J.)

(Biswaroop Chowdhury, J.)

