

16.11.2022
KC(17)

F.M.A.T 375 of 2022
Khagendra Mandal
-versus-
Phani Bhusan Mandal and Ors.
With
CAN 1 of 2022

Mr. Soumen Kumar Dutta,
Mr. Sabyasachi Bhattacharya.....For the appellant.

Mr. Anindya Bose,
Mr. Diptendra Mandal,
Mr. Nikhil Gupta,
Mr. Mridul Biswas.....For the respondent
nos. 1 to 10.

As the point involved is very short, we proposed to hear out the appeal. We are disposing of it by this judgment and order dispensing with all formalities.

We request the learned court below to dispose of the partition and administration suit by 30th November, 2023, by passing a final decree of partition.

The appellant claims to be the undivided owner of 9 decimals of the subject property. He had a katchha structure on it. According to Mr. Dutta, learned advocate for the appellant, that katchha structure is now derelict. His client has obtained sanction to construct a building on that parcel of land. He wants an order from this court to make that construction, pending the partition and administration suit.

Such an order, in our opinion, might create a problem if at the time of passing the final decree, this parcel of land does not fall in the share of the appellant.

In the circumstances, we have expedited the suit. In the meantime, the appellant will be free to re-build the katchha structure to make it habitable under the supervision of the Commissioner appointed by the learned court below.

We also request the learned court below to make an attempt, if 9 decimals of land is the adjudged share of the appellant/petitioner, that this particular parcel of 9 decimals of land is ultimately allotted to him on partition.

If that be the result, on passing the final decree the appellant/petitioner may proceed to make construction according to the sanctioned plan.

Any further interim order pending hearing of the suit may be obtained from the learned court below.

The appeal (F.M.A.T. 375 of 2022) and the application (CAN 1 of 2022) are thus disposed of.

(I.P. MUKERJI, J.)

(BISWAROOP CHOWDHURY, J.)

