

Item-135.	21-12-2022	FMAT 884 of 2014
		Subrata Kundu
		Versus
sg	Ct. 8	Uday Chandra Sen & Ors.

The matter appeared in the warning list on 29th November, 2022 and thereafter transferred to the regular list on 5th December, 2022. There was a clear indication in the list that the matter shall be transferred to the daily cause list on 5th December, 2022 and since then the appeal is appearing in the list.

The appeal defective. The appeal was presented on 30th July, 2014. The Stamp Reporter in its report dated 06-08-2014 notified few defects. No attempt has been make to remove the defects. In spite of due notice, the appellant is not represented. An interlocutory order dated 29-04-2014 passed in connection with the application under Order 39 Rule 1 and 2 read with Section 151 of the Code of Civil Procedure is the subject matter of challenge in this appeal.

After a contested hearing, the learned Trial Judge directed the parties to maintain status quo as regards nature and character of the Ka schedule suit property as existing on the date of the order till the disposal of the suit except for the rest construction work on the existing building of the defendant nos. 1 and 2 according to the sanction plan. This order is under challenge. The plaintiff alleged that the defendant nos. 1 and 2 have been encroaching upon the Ka-1 schedule suit property by extending their construction to the eastern side as well as from changing the

nature and character of the suit property. it was alleged that the Ka schedule property is a joint property of the parties and the plaintiff is the owner and possessor of 8 decimals of land of the suit property as described in Ka-1 schedule of the plaint. It was further alleged that the defendants are trying to encroach upon the plaintiff's portion as described in Ka-1 schedule of the plaint. The defendant in their written objection has specifically stated that they have purchased 4 decimals of land each in the suit property and they have been in possessing thereof. Their vendee converted the property into bastu prior to sell the same to the defendants. The defendants constructed an one storied house on their land after obtaining due sanction from the local panchayat and the house was constructed in the year 2008. Subsequently, they were constructing 2nd floor over the one storied building. They have not encroached upon any vacant portion of the suit property. The Trial Court was, prima facie, satisfied that the construction was raised by the defendant in respect of Ka schedule property. Materials available on record would not show that any construction work was carried on the vacant portion of Ka schedule property. On such consideration, the aforesaid interim order was passed.

We do not find any reason to upset the said order as on the basis of the materials on record. It is a few possible and the learned Trial Judge has rightly exercised its discretion. The appeal accordingly, fails.

However, in the unlikely event of the suit is pending, we request the learned Civil Judge (Senior Divison), Arambagh, Hooghly to dispose of the Title Suit No. 135 of 2013 as expeditiously as possible preferably within a period of six months

from the date of communication of this order by the office of the learned Registrar Administration (L&OM) without granting any adjournment to either of the parties unless it is unavoidable.

The appeal is accordingly, dismissed.

This order shall immediately be communicated to the learned Registrar Administration (L&OM) for information for doing the needful.

(Uday Kumar, J.)

(Soumen Sen, J.)