

22.12.2022
KC(2)

F.M.A.T. 486 of 2022
Purnima Roy and Anr.
-versus-
Hanuman Prasad Shaw and Anr.
With
CAN 1 of 2022

Mr. Sounak Bhattacharya,
Mr. Shubham Gupta,
Mr. Tanmoy Kumar Dey.....For the appellants.

Mr. Supratik Shyamal,
Mr. Milan Kanti Mandal.....For the respondents.

We do not find any merit in this appeal.

The impugned judgment and order dated 10th November, 2022 is substantially based on the admission of the appellants/plaintiffs as recorded in the order that they had encroached upon the respondents'/defendants' property at 6B, Chandibari Street, Kolkata and then attempted to stop the respondents/defendants from making construction on their own premises.

Mr. Bhattacharya, learned advocate for the appellants submits that this admission has been wrongly recorded and that his clients are entitled to obtain an order restraining the respondents from making construction.

We are afraid that it is settled law that if an admission has been recorded by the court, that the admission was wrongly recorded could only be

adjudicated by that particular court and not by the appellate court.

In those circumstances, this appeal (F.M.A.T. 486 of 2022) and the connected application (CAN 1 of 2022) are disposed of with the above observation and liberty to the appellants to take proper steps before the learned trial court. In case the contention of the appellants/plaintiffs succeeds it would be open to the learned court below to set aside or modify the impugned order.

(I.P. MUKERJI, J.)

(BISWAROOP CHOWDHURY, J.)