

31.08.2022
SL No.2
Court No.8
(gc)

FAT 645 of 2015

**Shyamal Kumar Roy
Vs.
Amal Kumar Roy & Ors.**

With

CPAN 492 of 2020

**Shyamal Kumar Roy
Vs.
Parimal Roy & Ors.**

Mr. Avik Dutta,
Mr. Syed Julfikar Ali,
...for the Appellant.
Mr. Joy Saha, Sr. Adv.,
Mr. Srijib Chakraborty,
Mr. T. Ganeriwala,
Mr. Aditya Mondal,
...for the Respondents.

On the earlier mentioning of the appellant and on an assurance that the special messenger cost for bringing the Lower Court Records would be deposited within one week from date, we extend the time to put in the cost of special messenger by one week from date.

All formalities regarding preparation of paper books are dispensed with.

Advocate-on-record for the appellant shall file an informal paper book out of Court by 11th November, 2022 serving one copy thereof on the Advocate-on-record of the respondents at least five days before the date of hearing of the appeal.

The appeal shall be listed in the Combined Monthly List of December, 2022 fairly at the top.

In the event the special messenger cost is not deposited within the specified period, the order of injunction shall stand automatically vacated without any further reference to this Court.

The said direction is peremptory.

Re: CPAN 492 of 2020

The applicant alleged that during the pendency of the appeal constructions have been made in violation of the order dated 19th August, 2016. However, it is not possible at this stage to ascertain the exact nature of the construction prevailing at the relevant point of time. The order of injunction was in the nature of status quo as regards possession in the property belonging to the estate of the deceased Nityananda Roy covered under the Will allegedly published by him on 9th July, 1993 till the disposal of the application. The nature of the violation alleged is not covered by the order dated 19th August, 2016. There was no order restraining the parties to raise any construction.

In view thereof, we do not find any act of contempt at this stage. The applicant could not indicate that how the possession in the property belonging to the estate of Nityananda Roy was interfered with subsequent to the order dated 19th August, 2016.

In view thereof, the contempt application being CPAN 492 of 2020 fails and stands dismissed.

However, there shall be no order as to costs.

(Uday Kumar, J.)

(Soumen Sen, J.)