

24.04.2023
Item No.18
Court No.32
Avijit Mitra

**FA 42 of 2023
with
IA No. CAN 1 of 2023**

**Sri Sajal Majumder & ors.
- Versus -
Sri Debashish Halder & ors.**

Mr. Prantick Ghosh,
Mr. Bitan Das,
Mr. Prasad Bhattacharjee
.....for the appellant
Mr. Dyutiman Banerjee
...for the respondent nos.1 & 2

The present appeal has been preferred challenging the judgment and decree dated 25th August, 2022 passed by the learned Civil Judge (Senior Division), 1st Court, Krishnanagar, Nadia in Title Suit No.539 of 2012. In connection with the appeal an application for stay being IA No. CAN 1 of 2023 has been filed.

Heard the learned advocates appearing for the respective parties and considered the materials on record.

Prima facie, an arguable case has been made out by the appellants and unless an *interim* order is passed, the appellants may suffer substantial loss.

We have been informed that an application has already been filed for appointment of Commissioner of partition and the same is likely to be considered by the learned Court below.

In view thereof, we direct that the learned Court below shall be at liberty to hear and dispose of the application for appointment of Commissioner and in the event the Commissioner is appointed, the commission work shall continue, however, no final decree shall be passed till the

disposal of the appeal. The aforesaid order is being passed to avoid multiplicity of proceedings.

The application being IA No. CAN 1 of 2023 is treated as on day's list and disposed of.

Let hearing of the appeal be expedited.

As Mr. Banerjee, learned advocate enters appearance on behalf of the respondent nos.1 and 2, service of notice of appeal upon the said respondents is dispensed with.

The appellants are directed to put in the requisites for effecting service of notice of appeal upon the other respondents, within two weeks.

Lower Court Records be called for through Special Messenger at the cost of the appellants. Such costs shall be deposited within two weeks from date.

Immediately, after arrival of the Lower Court Records, the office shall examine the same and if found complete, shall issue notice of arrival of Lower Court Records to the learned advocate for the appellants.

The appellants are directed to prepare requisite number of informal paper books-printed, typewritten or cyclostyled, as the case may be, out of Court and to file the same, within four weeks from the date of service of notice of arrival of Lower Court Records.

All formalities regarding preparation of paper books are dispensed with but the learned advocate for the appellant is directed to incorporate all the relevant documents in the informal paper books.

Liberty to mention.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)