

08-06-2023
Court No.1
Sh/36.

**In The High Court At Calcutta
Jalpaiguri Circuit Bench**

**FMAT 23 of 2021
With
CAN 1 of 2021**

Anju Agarwala & Anr..

-Vs-

Hiralal Agarwala & Ors..

Mr. Milindo Paul,
Mr. Nabankur Paul,
Ms. Bedashruti Bose,
Mr. Subham Das,
Mr. Subham Chanda.

..For the Appellants.

The respondents are not represented nor any affidavits have been filed by the respondents.

The appeal is arising out of refusal to pass an ad-interim order on 29-09-2020 in a suit for partition and perpetual injunction. In the suit the plaintiffs have alleged that the opposite party no.1 in connivance with the opposite party no.2 to 6 represented himself in the capacity of the Karta of the aforesaid Hindu Undivided Family " M/s Radhesham Agarwala and Sons" have entered into a Development Agreement on 03-07-2020 with one MSD Enclave, a partnership firm, represented by its authorized partner Mrinal Agarwal son of Sri Naresh Kumar Agarwala. It was further alleged that in the suit a specific prayer was made for delivery and/or cancellation of the development agreement. The plaintiffs have further alleged that there are co-partners in the joint property and are having equal share in respect of the property purchased by their father.

A co-ordinate bench on 23rd December, 2021 stayed the operation of the impugned order as the co-

ordinate Bench was of the view that the reason for not granting the ad-interim order appears to be perverse and there is no material to support the finding for refusal to pass such ad-interim order. While admitting the appeal the co-ordinate Bench directed the parties to maintain status-quo with regard to the nature, character and possession of the suit property till January 10,2022 and the same was extended until further orders by a subsequent order dated January 14, 2022.

We feel that keeping the appeal pending will not serve any purpose. The interim order in the nature of status-quo with regard to the possession, nature and character of the suit property shall continue till the disposal of the injunction application. Parties are restrained from alienating their share till the injunction application is disposed of.

We direct learned trial court to dispose of the interlocutory application on merits after exchange of affidavits as expeditiously as possible.

Since the respondents are not represented, let a copy of this order be served upon the respondents by speed post with acknowledgement due card within a week from date.

The appeal and the connected application are accordingly, disposed of without however, any order as to costs.

All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

(Raja Basu Chowdhury,J.) (Soumen Sen, J.)