

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

13.06.2023
Item No.-73
Court No. 01
sg

**FMAT 8 of 2023
CAN 1 of 2023
CAN 2 of 2023**

Bhabesh Das
Versus
Bibekananda Das & Ors.

Mr. Subhasish Misra

For the appellant

The appeal is arising out of an order dated 1st July, 2022 by which the learned Trial Judge vacated the earlier order of injunction in a suit for partition on the ground that, in spite of revelation of the existence of co-sharers who have not been impleaded in the partition suit, no attempt was made by the petitioner to bring on record the remaining co-sharers and without hearing them, the order of injunction cannot be continued, is a correct view with which we are not inclined to interfere with. However, upon impleading all the co-sharers, the petitioner may be allowed to move a fresh application for injunction upon notice to all the co-sharers.

In view of the above observations, the appeal and the connected applications are disposed of.

(Raja Basu Chowdhury, J.)

(Soumen Sen, J.)