

03
21.09.2023
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In the High Court at Calcutta
In the Circuit Bench at Jalpaiguri

MAT 125 of 2023
with
C.A.N. 1 of 2023

Shyamal Ghosh
-Vs.-
Jhatkan Singha

Dr. Navin Barik,
Ms. Esha Acharya
...for the appellant

Mr. Subham Ghosh,
Mr. Mayank Roy
...for the respondent

1. Learned counsel for the appellant points out that the appeal was erroneously classified as MAT instead of FMAT.
2. Let such error be rectified accordingly by the concerned Section.
3. It is further pointed out by learned counsel for the respondent that the appeal has been preferred against an order passed in an application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure by the learned Civil Judge (Junior Division) in a suit and, hence, ought to have been preferred before the learned District Judge concerned.

4. Upon a perusal of memorandum of appeal, we agree with such view.
5. Accordingly, MAT 125 of 2023 is dismissed, with liberty to the appellant to prefer an appeal against the order impugned before the concerned District Judge.
6. IA No.: C.A.N. 1 of 2023 is accordingly disposed of as well.
7. There will be no order as to costs.
8. Urgent certified copies of this order, if applied for, be made available to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)