

01.04.2024
MONDAY

Court : 04
Item : 04
Matter : FMA
Status : DO
Bench ID : 266175
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**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

**FMA 204 of 2024
with
CAN 1 of 2023**

Kanan Bala Santra & Ors.
Vs.
Nimai Chand Khanra & Ors.

Mr. Tarasankar Samanta, Advocate
.....for the Appellants
Mr. Probal Kumar Mukherjee, Senior Advocate
Mr. Haridas Das, Advocate
.....for the Respondent Nos. 1 to 3

1. By consent of the learned Counsel for the parties appearing before us, the appeal and the applications are taken up together.
2. The instant appeal arises from an order by which an application for temporary injunction was rejected by the Trial Court. At the time of admission of the instant appeal, this Court passed an interim order restraining the defendants/respondents nos. 1, 2 and 3 from changing the nature and character of the suit premises for a limited period. The aforesaid interim order was passed on 19.01.2024 and the matter is listed today for extension of interim order.
3. Both the Counsel for the parties submits that since it is a partition suit, any changes that would be brought thereat, may have some cascading effect at the time of passing the final decree.
4. Mr. Mukherjee, learned Senior Counsel appearing for the respondents, submits that although they have been restrained from changing the nature and character of the suit premises but taking advantage of the same, the plaintiffs/appellants are also trying to change the nature and character of the suit property.

5. In such view of the matter and bearing in mind the nature of the suit which is primarily a partition of the undivided property, we therefore, feel that the ad interim order of injunction be modified to the extent that the parties to the suit shall be restrained from changing the nature and character of the suit premises.
6. Since the suit is otherwise ready for hearing as the date is fixed for framing of the issues, we feel that it would not cause any prejudice to either of the parties if the ad interim order of injunction is allowed to continue till the disposal of the suit.
7. Accordingly, the ad interim order granted on 19.01.2024 is made absolute with the above modification and to continue till the disposal of the suit.
8. The Trial Court is requested to make efforts to dispose of the partition suit as expeditiously as possible preferably within eight months from the date of communication of this order.
9. With these directions and observations, the appeal being **FMA 204 of 2024** and the application being **CAN 1 of 2023** are **disposed of**.

(Harish Tandon, J.)

(Madhuresh Prasad, J.)

