

Form No. J(2)

In the High Court at Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present: The Hon'ble Justice Sabyasachi Bhattacharyya
And
The Hon'ble Justice Uday Kumar

FMAT 41 of 2025
IA No: CAN 1 of 2025
CAN 2 of 2025

Sri Arup Rana
Vs.
Smt. Karuna Rana and others

For the appellant	:	Mr. Sanjib Seth, Mr. Krishanu Banik, Mr. Tathagata Banik
For the respondent nos. 1-5	:	Mr. R. Mahato, Mr. A. S. Roy
Heard on	:	26.03.2025
Judgment on	:	26.03.2025

Sabyasachi Bhattacharyya, J.:-

1. In the order dated March 11, 2025, the caption erroneously recorded as FA 41 of 2025 instead of FMAT 41 of 2025.
2. Let such order be deemed to stand corrected accordingly.
3. Affidavit-of-service filed today be kept on record.
4. Heard learned counsel for the contesting parties in respect of condonation application. Upon being satisfied as to the sufficiency of

the reasons for the delay in preferring the appeal, CAN 1 of 2025 is allowed, thereby condoning the delay in preferring FMAT 41 of 2025.

5. There will be no order as to costs.
6. The appeal is now taken up for hearing under Order XLI Rule 11 of the Code of Civil Procedure.
7. In view of a strong *prima facie* case for hearing of the appeal on merits having been made out, the appeal is admitted and will be heard on the grounds as taken in the memorandum of appeal.
8. Since the ambit of the appeal is extremely limited, we give a proposal to both the contesting parties to take up the appeal along with the application for final disposal by dispensation of paper books as well as trial court records.
9. Learned counsel appearing for the plaintiff/respondent nos. 1 to 5, who are the primary contesting respondents, in his usual fairness, agrees to such proposal of the appeal being decided finally.
10. Service of notice on the respondent nos. 6 to 18 and the proforma respondent no. 19, against whom no relief has been sought in the appeal, is dispensed with.
11. By the impugned order, the learned Trial Judge disposed of finally an injunction application, however, without adverting to the merits of the injunction application and the written objection at all, merely on the premise that since there was already a prevalent ad interim order of *status quo* as regards possession and nature and character of the suit property, the learned Trial Judge found it just to extend the said order in the form of *status quo* till disposal of the suit.

12. It is common knowledge that there is a distinction between a mere extension of an ad interim order granted at the initial stage and a final hearing of an injunction order. There are several stages to the hearing of an injunction application. Whereas an ad interim order is passed on certain yardsticks, the observations made while passing the same are not binding at the final hearing of the injunction application, which is to be decided on contest upon adverting to the contentions of all the contesting parties.
13. While deciding the temporary injunction application finally, it is the incumbent duty of the civil court to advert to the allegations made in the injunction application and the written objection, if any, and decide on a full-fledged hearing the injunction application on its own merits. However, the procedure adopted by the learned Trial Judge was cryptic. The learned Trial Judge merely treated the final hearing of the injunction application as an application for extension of the ad interim order passed earlier and mechanically extended the same till disposal of the suit, in the process deciding the temporary injunction application without adjudicating the same on merits and/or adverting to the respective pleadings and contentions of the parties.
14. Thus, we are of the opinion that the impugned order is bad on the above score as well as devoid of reasons as such.
15. Accordingly, FMAT 41 of 2025 is allowed on contest against the respondent nos. 1 to 5 and ex parte against the other respondents/proforma respondents, thereby setting aside the impugned order bearing Order No. 11 dated June 10, 2024 passed by

the learned Civil Judge (Senior Division), Third Court at Paschim Medinipur in Title Suit No. 583 of 2022 and remanding the matter to the learned Trial Judge for a fresh adjudication of the temporary injunction application on merits in the light of the above observations, upon giving an opportunity of hearing to both sides.

16. It is, however, made clear that the ad interim order of *status quo* as regards possession and nature and character of the suit property, which was subsisting at the juncture of passing of the impugned order, is hereby revived and shall continue till disposal of the temporary injunction application by the learned Trial Judge.
17. It is expected that the learned Trial Judge shall decide the injunction application afresh on merits as expeditiously as possible, preferably within six weeks from the date of communication of this order to the learned Trial Judge.
18. CAN 2 of 2025 is disposed of accordingly as well.
19. There will be no order as to costs.
20. Urgent Photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)

I agree.

(Uday Kumar, J.)