

Item-
34. 18-09-2025

sg Ct. 1

FMA 659 of 2025
CAN 1 of 2025
CAN 2 of 2025

Swapam Belel
Versus
Tapan Belel & Ors.

Mr. Taraknath Halder
Mr. Subarna Bank
...for the appellant

Mr. Aniket Mitra
Mr. Tapan Singha Roy
...for the respondent nos.1&2

Ms. Pampa Dey Dhabal
Ms. Sangita Banerjee
...for the respondent nos.10-14

1. The appeal was admitted on 5th May, 2025 in presence of the respondent nos. 10 to 14. The coordinate Bench taking into consideration that the learned Trial Judge, despite recording that the plaintiffs have alleged that the defendant nos. 1 to 3 are trying to develop the property by engaging a promoter, observed that the said allegations are contradictory and passed an order of injunction restraining the respondent nos. 1 to 3 and/or their men and agents from selling, transferring, alienating and/or encumbering the suit property in favour of any third party. Direction was also given for serving copy of the application upon the respondent nos. 1 to 3 indicating that the application would be listed for hearing on 19th May, 2025. A further direction was given to file affidavit.
2. In the affidavit-in-opposition, it is stated that the petitioner and the respondent nos. 1 and 2 are full blooded brothers. The predecessor in interest of the

plaintiff/petitioner and the defendant nos. 1 and 2/respondent nos. 1 and 2 namely, Late Rashmani Bewah was the original owner of the property in question. Rashmani Bewah died in the year 1990 leaving behind the only adopted son, namely, Nagendra Nath Belel as her legal heir and successor. After her death, her son namely, Nagendra Nath Belel became the thika tenant of the property in question by way of inheritance. Nagendra Nath during his lifetime executed a registered Will dated 18th December, 1995. By virtue of the said registered Will, the respondent nos. 1 and 2 became the joint owners in respect of the property situated at B/1/H/1, Taltola Bazar Street, P.S. Taltola Kolkata-700 014. The said Will was duly probated by the Hon'ble High Court in PLA no. 276 of 2004.

3. Admittedly, the said Will was not under challenge. In view of the fact that the respondent in this proceeding is able to establish a better title than the plaintiffs in the suit, the appeal and applications stand dismissed. However, there shall be no order as to costs.
4. The order of injunction is vacated.

[Soumen Sen, C.J. (Acting)]

(Raja Basu Chowdhury, J.)