

Form No.J(2)

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
Appellate Side

Present : The Hon'ble Mr. Justice Sabyasachi Bhattacharyya
&
The Hon'ble Mr. Justice Uday Kumar

FAT 197 of 2025
With
CAN 1 of 2025

Sukhani Radha Chandan Charitable Trust and Anr.
-vs-
Sanjay Kumar Sukhani

For the appellants : Mr. Saunak Sengupta
Mr. S. N. Upadhyay,
Mr. Anurag Modi.

For the respondent : Mr. Tanmoy Kumar Dey,
Mr. Debnath Ganguly,
Mr. Supriyo Dutta,
Mr. Rajarshi Mitra

Heard on : July 2, 2025.
Judgment on : July 2, 2025

Sabyasachi Bhattacharyya, J.:

1. In view of the scope of the appeal being very limited, we take up the appeal and application for hearing together by dispensing with all other formalities.
2. By the impugned judgment and deemed decree, the learned Trial Judge has rejected the plaint of the suit filed by the plaintiffs/appellants for declaration that plaintiff no.1-trust is the absolute owner of the suit premises and for consequential permanent injunction. The only premise of rejection of the plaint was that the suit was barred by law, specifically Section 92 of the Code of Civil Procedure, in view of no leave being sought under the said provision.
3. Upon hearing learned Counsel for the parties, we find that the learned Trial Judge entirely misdirected herself in holding that a leave under Section 92 was required, since the present suit has been instituted in the name of the trust itself seeking declaration of title of the trust as against a third party and consequential relief by way of permanent injunction. Thus, the suit does not come within the ambit of Section 92 of the Code of Civil Procedure at all. Hence, the impugned judgment and deemed decree cannot be sustained in the eye of law.

4. Accordingly, FAT 197 of 2025 is allowed on contest, thereby setting aside the impugned judgment and deemed decree dated January 29, 2025 passed by the learned Judge, Twelfth Bench, City Civil Court at Calcutta in Title Suit No. 91 of 2021.
5. The learned Trial Judge shall now take up the suit for hearing on merits in accordance with law. We make it abundantly clear that we have not entered into the merits of the respective contentions of the parties in the suit and it will be open to the learned Trial Judge to decide all issues upon proper trial and giving opportunity of hearing to all parties in accordance with law.
6. No order as to costs.
7. CAN 1 of 2025 is disposed of accordingly as well.
8. Urgent photostat certified copy of the judgment, if applied for, be supplied to the parties at an early date.

I agree.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)