

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

F.M.A. 858 of 2024
IA No: CAN 1 of 2025

Sri Shaktipada Maity and others
Vs.
Sri Lakshman Maity and others

For the appellants : Mr. Mr. Tanmay Mukherjee
Mr. Souvik Das
Mr. Tapas Chatterjee
Mr. K.R. Ahamed
Mr. Rudranil Das

For the respondents : Mr. Taher Ahamad
Ms. Priyanka Sharma

Heard on : 11.06.2025, 24.06.2025 &
02.07.2025

Judgment on : 02.07.2025

Sabyasachi Bhattacharyya, J.:-

1. The present appeal arises out of a status quo order passed while disposing of an application for injunction filed by the plaintiffs/respondents in a suit for partition.

2. Learned counsel for the appellants submits that admittedly the appellants are in occupation of 82 decimals out of the total 92 decimals of the suit property for the last 20 - 25 years as per the pleadings in the affidavit-in-opposition filed by the plaintiffs/opposite parties in court today.
3. As such, the appellants may be permitted to harvest the crops which have been sown by them in their portion of the property.
4. Learned counsel appearing for the plaintiffs/respondents files an affidavit-in-opposition which is kept on record.
5. By relying on the same, learned counsel argues that the appellants are in unlawful occupation of a majority portion of the suit property whereas their share is restricted to 58 decimals. The rest 34 decimals, it is argued, are owned by the plaintiffs/respondents.
6. As such, it is contended that the forcible occupation of the appellants should not be permitted to continue by allowing them to harvest crops sown in respect of the extra land occupied by the appellants.
7. Upon a careful consideration of the contentions of the parties, we find that the issues involved in the appeal as well as the application are identical.

8. As such, we take up the appeal along with application for being adjudicated together, upon dispensation of unnecessary formalities.
9. Fact remains that the learned trial Judge passed an order of status-quo with regard to nature and character, possession and transfer of the suit schedule property till disposal of the suit.
10. The plaintiffs/respondents have not challenged such order.
11. As such, the plaintiffs have acquiesced to the portion of the impugned order whereby status quo has been directed to be maintained in respect of the current possession of the parties in respect of the suit property.
12. In the affidavit-in-opposition filed before us, the plaintiffs/respondents have admitted that the appellants are in occupation of 82 decimals of the property whereas 10 decimals are in occupation of the plaintiffs/respondents.
13. In the absence of any challenge by the plaintiffs/respondents to the status quo order of the trial court in respect of the current possession of the parties, the respondents cannot now argue that the appellants' possession in respect of the suit property, to the extent as held by them on the date of passing of the impugned status quo order, can be disturbed.

- 14.** It is only just and proper that the person who has cultivated a particular portion of a land is permitted to harvest and reap the crops grown by him on the said property.
- 15.** In any event, harvesting crops does not tantamount to changing the 'nature and character' of a property.
- 16.** We do not find any illegality otherwise, however, regarding the impugned order directing the parties to maintain status quo in respect of the nature and character, possession and transfer with regard to the suit property.
- 17.** Thus, we deem it appropriate to modify the impugned order to the extent that the parties shall be permitted to harvest the crops sown on their respective possessed portions of the suit property.
- 18.** Accordingly, FMA 858 of 2025 is allowed on contest, thereby modifying the impugned order bearing Order no.8 dated March 24, 2025 passed by the learned Civil Judge, Senior Division at Ghatal, District-Paschim Medinipur in Title Suit No.69 of 2024 to the extent that the parties shall continue to maintain status quo in respect of nature and character, possession and regarding transfer of the suit property till disposal of the suit; however, nothing in the said status quo order shall be deemed to prevent the parties from harvesting the crops sown on their

respective occupied portions of the suit property till disposal of the suit.

- 19.** Consequentially, CAN 1 of 2025 is also disposed of in the light of the above observations.
- 20.** It is made clear that this court has not conclusively decided the merits of the contentions of the parties, which shall be decided independently in accordance with law at the final hearing of the suit.
- 21.** There will be no order as to costs.

(Sabyasachi Bhattacharyya, J.)

I agree.

(Uday Kumar, J.)