

Item-
20.

09-09-2025

sg

Ct. 16

**FMA 975 of 2025
CAN 1 of 2025**

M/s. Dhar Jewellers,
represented by Raghunath Dhar & Anr.
Versus
Pupali Mohanta & Anr.

Mr. Ratul Das
Mr. Soumendra Mohan Rakshit
...for the appellants

1. Affidavit of service filed in Court is taken on record.
2. In spite of service, the respondents are not represented.
3. The appellants are aggrieved by the order dated 11th March, 2025 by which the appellants/defendants, its men and agents have been restrained from repairing or making any construction in the schedule shop without permission of the learned Trial Court or without consent of the plaintiff till the disposal of the suit.
4. The appellants are running a jewellery shop in the suit premises. The plaintiff is one of the co-owners. Apparently, the other co-owners are not objecting to the repairing work. The jewellery shop, according to the learned Counsel for the appellants, is only for refurbishing and repairing the shop room. The learned Trial Court previously allowed such repairing work to be carried out by the respondents.
5. It is submitted that all the necessary repairing and refurbishing works have been completed with the permission of the court. The apprehension that the defendants have been perpetually restrained from

repairing and/or making any construction in the schedule shop appears to be misplaced as the learned Trial Court has already allowed in the past repairing works whenever necessary and within the schedule shop room. The plaintiff was permitted to carry on refurbishing as well as repairing works.

6. The learned Trial Court was aware of the requirement of repairing and/or raising some temporary construction for the shop to carry on its business and hence has given specific liberty to the defendants to undertake any such work with the permission of the court or without consent of the plaintiff.
7. We only clarify that in the event the plaintiff refuses to grant any permission, it would always be open for the court to decide such necessary repairing or raising construction works provided it conforms to all statutory requirement and the consents of the other co-sharers is also be taken into consideration.
8. The appeal and the application are, accordingly, disposed of.
9. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Soumen Sen, J.)

(Apurba Sinha Ray, J.)