

AD- 23
Ct No.16
25.02.2025
(SSS)

FMA 701 of 2023
With
CAN 1 of 2023

Ram Gopal Bhattacharya
Vs.
Panchanan Kar alias Panchanan
Kar Sutradhar and Ors.

Mr. Tanmoy Chowdhury,
Mr. Ritoprita Ghosh
...For the Appellant.

Mr. Sandip Ghosh,
Mr. Partha Sarkar
...For the Private Respondent No. 1.

1. The present appeal has been preferred against an order of status quo passed against both the parties with regard to the nature, character, possession and alienation in respect of the suit property. The matter arises out of a partition suit. Learned Counsel for the appellant submits that there was a previous oral partition between the parties, which was given effect to by the parties mutually being allocated shares in respect of the property, in terms of which they are possessing different parts of the suit property.

2. However, we find that the contention of the appellant is required to be decided upon evidence, which would require a full-fledged trial in the suit.

3. The appellant also argues that the status quo order prevents the appellant from repairing/renovating the dilapidated dwelling house of the appellant.

4. However, we do not find any bar to either of the parties taking out appropriate applications for repairs/renovation if need be, despite subsistence of the present status quo order.

5. Insofar as the merits of the present appeal is concerned, we do not find any reason to interfere with the impugned order of the learned Trial Judge, since it is well-settled that during pendency of a partition suit, the endeavour of the court is to maintain the property *in statu quo*.

6. Accordingly, we do not find any irregularity or illegality in the impugned order.

7. Hence, FMA 701 of 2023 is dismissed under Order XLI Rule 11 of the Code of Civil Procedure.

8. CAN 1 of 2023 is accordingly disposed of as well.

9. However, it is made clear that nothing in this order or the status quo order passed by the trial court shall prevent either of the parties from taking out appropriate applications for repair/renovation on

their respective occupied portions of the property. If so filed, the learned Trial Judge shall decide such application(s) independent of any observation made herein or in the impugned order, upon giving adequate opportunity of hearing to both sides, if the applicant is otherwise entitled to such repair/renovation.

10. No order as to costs.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)