

Item-
ML-29.

01-09-2025

sg

Ct. 16

**FMA 969 of 2025
CAN 1 of 2025**

Subhajit Das
Versus
Dr. Sudipto Mundle & Ors.

Mr. Subrata Banerjee

...for the appellants

Mr. Arik Banerjee

Ms. Debjani Sengupta

...for the respondent nos.1&2

Mr. Aman Agarwal

Ms. Paulomi Ghosh

...for the respondent no.4

1. In a suit for declaration, partition and injunction, the plaintiff alleged that the plaintiff is having 1/6th share in schedule-A suit property on the basis of the inheritance from his mother.
2. The learned Trial Court, prima facie, found the plaintiff to be in possession of the suit property and issued show cause to the defendants as to why the prayer for temporary injunction shall not be granted in favour of the plaintiff.
3. Today, the defendants/respondents are represented. It is submitted on behalf of the respondents that the mother of the plaintiff during her lifetime sold her entire share in schedule-A suit property to the respondent nos. 1 and 2 and the said documents shall be disclosed in answer to the show cause.
4. The defendants shall file their written objection to the injunction application within a period of fortnight from date and reply thereto, if any, be filed within one week thereafter.

5. We request the learned Trial Judge to dispose of the injunction application as expeditiously as possible without granting any adjournment to either of the parties unless it is unavoidable.
6. The possession of the plaintiff shall not be disturbed and if any alienation is made by the said respondents or any third party interest is created in the meantime, we make it clear that no equity shall create in favour of such third party.
7. This interim order shall continue till the injunction application is finally disposed of by the learned Trial Court.
8. We further make it clear that the observation made in this order, shall not influence the learned Trial Court in deciding the injunction application on merits.
9. It would be open for the learned Trial Court to decide the application for rejection of plaint along with injunction application and in the event the application for rejection of plaint is allowed, there may not be any necessity to decide the application for injunction on merits and any such decision in favour of the defendants would automatically result in vacating the interim order passed.
10. With the aforesaid direction, the appeal and the application are disposed of.
11. 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.)