

AD-14
Ct No.16
19.02.2025
TN

FMAT 224 of 2024
IA No: CAN 1 of 2024

Suresh Singh
Vs.
Ram Pravesh Singh and another

Mr. Gopal Chandra Ghosh,
Ms. Sunandana Saha,
Mr. R.K. Mondal

....for the appellant

1. Although the Stamp Reporter has given a report that the filing of the appeal is delayed by five days, we find from a calculation of the relevant dates of obtaining the certified copy and the impugned judgment that the appeal has been filed well within time.
2. Accordingly, the said report is glossed over and it is held that there is no defect in filing of the appeal.
3. The appeal is now taken up for hearing under Order XLI Rule 11 of the Code of Civil Procedure.
4. The short conspectus of the case is that the appellant filed a suit for declaration that a registered sale deed executed by the defendant/respondent no.1 in favour of his wife, the defendant/respondent no.2, on the strength of a registered power of attorney executed by the appellant in favour of the defendant/respondent no.1, is void, illegal and not binding on the plaintiff.
5. In the said suit, the appellant filed two injunction applications – one seeking a restraint order on the

respondents from transferring or alienating the suit property in favour of third parties – and another for restraining the respondents from changing the nature and character of the suit property.

6. However, on a perusal of the materials, as well as the impugned order of the learned Trial Judge, we do not find any illegality in the said order.
7. The learned Trial Judge proceeded on the premise that there is an existing power of attorney and, as such, *prima facie* the defendant/respondent no.1 had a right on the strength of the same to execute the sale deed in favour of the respondent no.2.
8. We also find that the appropriate remedy, if the appellant is so entitled, would be in the form of recovery of the consideration amount which might have passed between the defendant/respondent no.2, the purchaser, and the defendant/respondent no.1, the Constituted Attorney of the appellant. However, the suit, as framed, does not convince us that there is any *prima facie* case for injunction to be granted and/or that the balance of convenience and inconvenience is in favour of such grant.
9. Accordingly, we are not inclined to interfere with the impugned order.
10. Hence, FMAT 224 of 2024 is dismissed under Order XLI Rule 11 of the Code of Civil Procedure.

Consequently, IA No: CAN 1 of 2024 stands dismissed as well.

11. There will be no order as to costs.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)