

M/L- 1467
24/06/2025
Ct. No.-6
Aritra

C.O. 2235 of 2024

**Sri Alope Kumar Ghatak
Vs.
Sri Ashim Ghatak & Ors.**

Mr. Amitava Deb
Ms. Debjani Sengupta
Ms. Poulomi Ghosh

...for the petitioner

This application under Article 227 of the Constitution of India is at the instance of the defendant No.1 and is directed against an order dated March 16, 2024 passed by the learned Additional District Judge, Khatra, District-Bankura in Miscellaneous Appeal No.3 of 2023.

By the order impugned, the miscellaneous appeal arising out of an order rejecting an application under Order 39 Rule 1 and 2 of the Code of Civil Procedure was allowed and the parties were directed not to interfere with the possession of the co-shareres of the schedule property till the disposal of the suit and to maintain *status quo* in respect of the possession of the suit property in accordance with the family arrangement dated May 13, 1961 and January 29, 1964.

The learned advocate appearing for the petitioner submits that the plaintiff/opposite party herein has suppressed the fact of the agreements between the parties whereby the properties were partitioned between

the co-sharers. She submits that the learned trial judge after taking note of such suppression rejected the application under Order 39 Rule 1 and 2 of the Code of Civil Procedure. However, the learned Judge of the First Appellate Court without considering such suppression of material fact allowed the miscellaneous case.

This Court finds that the learned Judge of the First Appellate Court took note of the fact that the details of the family arrangement agreements dated May 13, 1961 and January 29, 1964 has not been mentioned but in paragraph 2 of the plaint, the plaintiffs have stated that the co-sharers are possessing the suit property by mutual arrangement. The learned Judge of the First Appellate Court rightly held that whenever any mutual arrangement involved transfer of property then such mutual arrangement have to be registered in view of Section 17 of the Registration Act. The learned Judge of the First Appellate Court took note of the several decisions of the Hon'ble Supreme Court as well as this Court and by a speaking order passed an order of injunction.

This Court is not inclined to interfere with such order sitting under Article 227 of the Constitution of India.

With the above observation CO 2235 of 2024 stands disposed of.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Hiranmay Bhattacharyya, J.)