

D/L.5.
November 4, 2025.
MNS.

FMAT No. 290 of 2025
+
CAN 2 of 2025

Smt Chaitali Dutta
Vs.
Smt. Ira Dutta and another

Mr. Debasish Chattopadhyay,
Mr. Tirthankar Basu,
Ms. Suman Biswas

... for the appellant.

Mr. Nilanjan Adhikari,
Ms. Oindrila Sinha

...for the respondents.

1. The affidavit-of-service filed in Court today be kept on record.
2. Heard learned counsel for the parties.
3. Since questions both of law and fact are involved in the matter, we admit the appeal and take it up for hearing.
4. The bone of contention in the appeal is that in a suit, primarily for cancellation of a deed of gift executed by the plaintiff-respondent no. 1 in favour of the defendant-appellant, the plaintiff-respondent no. 1 sought injunction in respect of giving effect to the deed of gift and creating any third party interest.
5. By the impugned order, the learned trial Judge, at the ad interim stage, restrained the defendant no. 1 appellant from "doing any unlawful act in respect of

the suit property” and from giving effect to the impugned deed of gift as well as from creating any third party interest in respect of the share or portion of the property mentioned in the deed of gift.

6. Upon hearing learned counsel for the parties, we find that admittedly, a registered deed of gift exists as of today in favour of the defendant no. 1/appellant.

7. A presumption of correctness to official acts is attached to a registered deed of gift and as such, by restraining the appellant from giving effect to the impugned deed of gift at the ad interim injunction stage, the learned trial Judge has virtually decreed the suit in favour of the plaintiff at a premature stage without recording any concrete reasons for doing so and without granting any opportunity to the parties to address all issues by leading evidence on trial.

8. Insofar as “doing any unlawful act” is concerned, the said component of the impugned injunction order is vague and there does not appear any strong *prima facie* case to the effect that any unlawful act is being done by the appellant.

9. Even if some unlawful act is done by the appellant, it is always open to the respondent no. 1 to approach the concerned police station for taking appropriate steps and/or seek appropriate

remedies specifically in that regard before the competent court.

10. However, with regard to creation of third party interests, we agree with the view of the learned trial Judge since, in view of the challenge taken to the registered gift deed-in-question, if third party interests are created, unnecessary multiplicity of proceedings would ensue, which might render the suit infructuous.

11. Accordingly, FMAT No. 290 of 2025 is partially allowed on contest, thereby modifying the impugned order, bearing Order No. 3 dated February 19, 2025 passed by the learned Civil Judge (Senior Division), First Court at Baruipur, District – South 24 Parganas in Title Suit No. 89 of 2025, by **setting aside** the portion of the said impugned order whereby the defendant no. 1/appellant was restrained and prohibited from doing any unlawful act in respect of the suit property and from giving effect to the impugned deed of gift, but **retaining** the portion of the impugned order whereby the defendant no. 1/appellant has been restrained from creating any third party interest in respect of the suit property.

12. It is made clear, however, that we have not entered into the merits of the contentions of the parties and it will be open to the learned trial Judge to decide the issues independently at the final hearing of the

injunction application and the suit without being influenced in any manner by any of the observations made above.

13. CAN 1 of 2025 is disposed of accordingly as well.

14. There will be no order as to costs.

(Sabyasachi Bhattacharyya, J.)

(Supratim Bhattacharya, J.)