

02.09.2025
SL No.14
Court No.16
(gc)

**FMA 1334 of 2025
CAN 1 of 2025**

**Nemai Das
Vs.
Purna Das @ Purna Chandra Das & Ors.**

Mr. Sukanta Das

...for the Appellant.

1. In a suit for partition, declaration and for damages, an injunction application was filed by the plaintiffs. The said application was disposed of by directing the plaintiffs and the defendants in general and the defendant no.3 in particular to maintain status quo in respect of the nature and character, possession and transfer of the suit schedule property as mentioned in the injunction application till the disposal of the suit. The injunction application was contested by the defendant no.3. The defendant no.3 is the present appellant. The plaintiffs alleged that the defendant no.3 has gifted in excess of his share in the suit property and, accordingly, he has no share in the suit property at present but in spite thereof, the defendant no.3 is trying to encroach upon the substantial portion of the suit property taking advantage of the old age of the plaintiffs and is raising construction work in the suit property prejudicial to the interest of the

plaintiffs. The defendant no.3 appears to have submitted that the gift deed involved in the suit was obtained by force. However, as rightly observed by the learned Trial Court there was no contemporaneous challenge to the said gift deed. It is only after the suit was filed in which a prayer for injunction was made that in the written objection the said plea was taken.

2. Considering the nature of the dispute between the parties, we are of the view that the discretion exercised by the Trial Court does not call for interference.
3. Accordingly the appeal and the application are dismissed.
4. However, there shall be no order as to costs.
5. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Soumen Sen, J.)

(Apurba Sinha Ray, J.)