

Item-
2. 13-06-2025

FAT 215 of 2024
CAN 2 of 2024

sg

Puspa Mondal & Ors.
Vs.
Pranita Mondal & Ors.

Ct. 8

Mr. Subhabrata Das
Mr. Arindam Banerjee
...for the appellants
Mr. Shibaji Kumar Das
Mr. Dipendu Sarkar
...for the respondent no.1
Mr. Sundar Gopal Bhattacharyya
...for the respondent no.7

1. The appellant no.1 claims to be legally married wife of Late Dilip Mondal. The respondent no.1 also claims to be the wife of late Dilip Mondal. It appears that during the pendency of their partition suit, after the death of Dilip Mondal, both Puspa Mondal and Pranita Mondal applied for substitution and both were added as respondents with other legal heirs of the defendants in the partition suit although, it appears that Puspa Mondal has raised objection with regard to impleadment of Pranita Mondal in the said proceeding. However, the order of learned Trial Court while disposal of the substitution application permitting addition of Pranita Mondal was never challenged. The learned Judge has declared that the plaintiffs are entitled to a decree for declaration of their 1/8th share each in the suit property. Similarly, the legal heirs of late Dilip Mondal would also be entitled to 1/8th share each in the suit property.

2. The dispute appears to be between the appellant no.1 and the respondent no.1 with regard to the division of shares amongst the legal heirs of Dilip Mondal. For this purpose, the preliminary decree need not be stayed. It is a dispute, *inter se*, which ought to have been decided at the stage of substitution or may be by other legal proceedings.
3. On such consideration, we are not inclined to interfere with the order passed by the learned Trial Court.
4. However, this order shall not prevent the respondent no.1 to establish her legal status in appropriate proceeding.
5. If such proceeding is initiated that would not be a bar in completing the partition proceedings.
6. The appeal and the application are, accordingly, disposed of. However, there shall be no order as to costs.
7. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Soumen Sen, J.)

(Smita Das De, J.)