

Form No. J(2)

In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side

Present: The Hon'ble Justice Sabyasachi Bhattacharyya
And
The Hon'ble Justice Supratim Bhattacharya

F.M.A.T 395 of 2025
IA No: CAN 1 of 2025
CAN 2 of 2025

Mrs Bhavna Uppal
Vs.
Castron Projects Private Ltd. and another

For the appellant	:	Mr. Arijit Bardhan Mr. Sayan Sinha Mr. S. Abedin Mrs. Chitra Abedin Ms. Pooja Singh Mr. Gourab Mondal
For the respondents	:	Mr. Joydip Kar, Snr. Adv. Mr. Indranil Roy, Snr. Adv. Mr. Arnab Mukherjee
Heard on	:	11.11.2025
Judgment on	:	11.11.2025

Sabyasachi Bhattacharyya, J.:-

1. Leave is granted to the learned Advocate-on-record for the appellant to insert the name of the learned Trial Judge in the

preamble of the Memorandum of Appeal during the course of the day.

2. In view of several arguable questions being involved, we admit the appeal to be heard on the grounds taken in the Memorandum of Appeal.
3. On consent of both sides, the appeal itself is taken up for hearing in view of the conspectus of the same being short.
4. The appellant has filed a suit, from which the present appeal emanates, challenging certain deeds executed by one R.S. Chaudhuri in favour of the defendants/respondents as well as the deed by which the said R.S. Chaudhuri, the biological father of the appellant, purchased the property from one Bhudeb Khan and one Kaloo Khan.
5. The case of the plaintiff/appellant is that she is the adopted daughter of one N.S. Chaudhuri, the brother of R.S. Chaudhuri, and inherited the suit property from N.S. Chaudhuri, who purchased the same in the year 1967.
6. The learned Trial Judge, by the impugned order, partially rejected the application of the plaintiff/appellant.
7. While holding that the said application is being rejected on contest, in the same breath, the learned Trial Judge observed that the defendants/respondents cannot claim any equitable relief in case the suit is decided in favour of the plaintiff and

that the defendants are directed to notify the prospective buyers regarding pendency of the suit and they will be bound by the decree.

- 8.** Learned counsel for the appellant argues that one of the premises of the impugned order was that the property which was the subject-matter of the 1967 purchase deed of N.S. Chaudhuri, the appellant's predecessor, does not tally with the subject-matter of the purchased deeds of the defendants, which is factually incorrect.
- 9.** It is submitted that whereas in the purchase deed of N.S. Chaudhuri, the C.S. Khatian number was recorded, in the schedule of the purchase deeds of the defendants, the R.S. Khatian numbers were enumerated, which creates an impression of apparent discrepancy, although the properties are in reality identical.
- 10.** It is further submitted that the learned Trial Judge observed that no document as to adoption of the plaintiff by N.S. Chaudhuri was produced.
- 11.** The appellant has filed before this court an application under Order XLI Rule 27 of the Code of Civil Procedure, *inter alia*, annexing a plaint filed by one of the biological sons of R.S. Chaudhuri, where he claims that the present plaintiff is the adopted daughter of the said N.S. Chaudhuri.

12. As such, it is argued that if the said document is permitted to be brought on record as additional evidence, being relevant, one of the grounds on which the learned Trial Judge held that the plaintiff/appellant was not entitled to injunction would be erased.
13. That apart, the plaintiff also seeks to produce before this court a power of attorney, the absence of which had also been a consideration before the learned Trial Judge.
14. Learned counsel relies on a judgment reported at (2008) 11 SCC 1 and submits that apparently the learned Trial Judge proceeded in the lines of the said judgment, where injunction was granted by restraining the defendants/respondents therein from transferring properties without indicating in the transfer deeds as to the pendency of the *lis*.
15. However, it is contended that in the said case, the Hon'ble Supreme court directed security to be furnished by the defendants/respondents.
16. It is contended that if third party rights are created, there would be unnecessary multiplicity of proceedings and it would be difficult for the plaintiff, if the plaintiff ultimately succeeds in the suit, to implement the decree against all the *pendente lite* purchasers of the property.

17. Thus, it is submitted that since a strong *prima facie* case was made out and the learned Trial Judge herself recorded that an arguable case has been made out by the plaintiff, the learned Trial Judge ought to have granted full-fledged injunction as prayed for by the plaintiff/appellant.
18. Learned senior counsel appearing for the defendants/respondents argues that the learned Trial Judge correctly observed that the subject properties of the respective purchase deeds of N.S. Chaudhuri and R.S. Chaudhuri and the deed by which R.S. Chaudhuri transferred the property to the present defendants are completely different.
19. It is submitted that there is not an iota of evidence to indicate that both the properties are identical and, as such, the plaintiff has failed to prove even *prima facie* any right, title or interest in the property which is the subject-matter of the defendants' purchase deed.
20. Learned senior counsel also points out that no substantive evidence of the adoption of the plaintiff by N.S. Chaudhuri has been brought forth before either the trial court or this court.
21. Learned senior counsel for the respondents submits that the respondents are also contemplating a cross-objection/cross appeal against the present impugned order, since the reasoning of the same is contradictory with the conclusion.

- 22.** It is pointed out that although the learned Trial Judge categorically rejected the application under Order XXXIX Rules 1 and 2 filed by the plaintiff/appellant, in the same breath, the defendants were directed to notify prospective buyers regarding pendency of the suit and that they would be bound by the decree which, obviously, would drastically reduce the price which can be obtained for such transfers, thereby tantamounting to grant of injunction in favour of the plaintiff/appellant.
- 23.** Upon a perusal of the impugned order, we find that there are palpable contradictions in the same.
- 24.** Whereas the learned Trial Judge observed that the plaintiff has brought forth an arguable case which “cannot be settled in the absence of trial”, the learned Trial Judge categorically made several observations which run contrary to such finding.
- 25.** For example, the learned Trial Judge observed that nothing has been brought on record from the end of the plaintiff to show that the property which was sold out in favour of N.S. Chaudhuri in the year 1967 is actually the suit property and the subject-matter of the dispute.
- 26.** If the very identity of the subject property which was sold to N.S. Chaudhuri and claimed by the plaintiff and that which was purchased by the defendants is in doubt, it could not have been observed by the learned Trial Judge that a *prima facie* case was

made out insofar as grant of injunction regarding the suit property is concerned.

- 27.** Again, even from the document which has been sought to be produced before us, it cannot be conclusively said that there was an adoption of the plaintiff/appellant by N.S. Chaudhuri.
- 28.** However, we desist from commenting on the merits of the said document at this juncture since it would be premature in view of the order which we contemplate to pass.
- 29.** That apart, the learned Trial Judge dismissed the injunction altogether but, as rightly pointed out by the respondents, added a rider to the said refusal which tantamounts to injunction, by directing the respondents/defendants to notify the prospective buyers regarding not only of the pendency of the suit but also that they would be bound by the decree.
- 30.** The said conclusion is, thus, self-contradictory.
- 31.** Again, there are several questions which have been left unanswered, such as whether the plaintiff/appellant is the adopted daughter of N.S. Chaudhuri and can claim by inheritance through him and whether the subject properties of the purchase deed of N.S. Chaudhuri and that of the defendants' predecessor are identical.
- 32.** In any event, since the appellant seeks to bring on record certain further documents which might have germane bearing on the

adjudication of the injunction application, we are of the opinion that for the ends of justice, both parties should be permitted to bring further evidence on record to resolve the questions which have been left open-ended in the impugned order.

- 33.** For example, the plaintiff is required to *prima facie* show that she was the adopted daughter of N.S. Chaudhuri and that the property which was the subject-matter of the purchase deed of N.S. Chaudhuri is identical with the suit property as well as the properties which have been purchased by the defendants by the impugned deeds.
- 34.** Similarly, the defendants would be at liberty to prove the contrary on both counts.
- 35.** In such view of the matter, the ends of justice would be subserved in the event the impugned order is set aside, being self-contradictory on the face of it, and the matter is remanded to the learned Trial Judge for a fresh consideration on merits.
- 36.** Accordingly, FMAT 395 of 2025 is partially allowed on contest, thereby setting aside the impugned order bearing Order no.05 dated July 14, 2025 passed by the learned Civil Judge, Senior Division, Second Court at Asansol, District-Paschim Bardhaman in Title Suit No. 90 of 2025 and remanding the injunction application to the trial court for a fresh adjudication on merits

upon giving adequate opportunity of further hearing to both sides.

- 37.** Both sides shall be given opportunity by the learned Trial Judge to produce new documents, if they deem so fit, in support of their respective cases.
- 38.** Such documents shall be exchanged in advance between the parties and be brought before the court by way of affidavits/applications affirmed on oath by the parties.
- 39.** It is expected that the entire exercise of re-adjudication of the injunction application in terms of the above observations shall be concluded as expeditiously as possible, preferably within three months from the date of communication of this order to the learned Trial Judge.
- 40.** CAN 1 of 2025 and CAN 2 of 2025 are also disposed of in the light of the above observations.
- 41.** There will be no order as to costs.
- 42.** Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)

I agree.

(Supratim Bhattacharya, J.)