

Ct No.8
AD- 10
14.10.2025
(SSS/SG)

FMAT 434 of 2025
With
CAN 1 of 2025

Smt. Sandhya Giri and Ors.
Vs.
Tapan Kumar Giri and Ors.

Mr. Arkadyuti Pahari
Ms. Gargi Maity
Mr. Alik Mandi

.....For the appellant.

Mr. Sandip Das
Mr. Kapil Chandra Sahoo

.....For the respondent no. 1.

1. The order of the Civil Judge (Senior Division),
1st Court at Contai, Purba Medinipur dated
September 19, 2025 passed in Title Suit No. 97 of
2019 is under challenge in the instant appeal.
2. The appellants are aggrieved due to the initial
alleged negligence of the respondent to participate in
the suit.
3. Learned counsel appearing for the appellants
has submitted that only after five years, the
respondents appeared before the Civil Judge and they
have obtained an order to construct over the suit
property which is admittedly a joint property. He has
further submitted that till the date of passing of the
impugned order, the appellant was enjoying an order

of status quo by the court. That the court has made gross error and unreasonably vacated the order of status quo, thereby granting undue advantage of construction over the ejmali property by the present respondents. It has been submitted that on the joint property, none of the co-sharers can be permitted to construct.

4. Learned counsel for the respondents has submitted that the appellants have been adequately protected by the Civil Judge by the impugned order insofar as the court has directed the respondents shall not have any equity over the constructed portion and shall have to submit an undertaking to that effect.

5. After carefully perusing the record and considering the submissions, the court finds that the following portion of the impugned order is pertinent in the instant appeal:-

“In joint property every co-sharers have equal right, title, interest and possession over joint property. During pendency of suit a co-sharers may be permitted to complete the house for residential purpose subject to the undertaking in the form of affidavit stating that:- this defendant will not claim any equity at any point of time in any manner; if the constructed portion is not allotted in favour of this defendant at the time of

allotment of share, then this defendant will be compelled to remove the construction at this own cost without causing any delay.

Defendant will have to file the undertaking in the form of affidavit strictly in view of this order on the date fixed in view of this order i/d this order will be recalled automatically.

Made it clear that defendant will be under obligation to comply with all the legal norms regarding construction of house. This order is only for modification of injunction order only and not for any other purpose.”

6. It therefore clearly transpires that the court has directed that the present respondents shall not claim any equity so far as the constructed portion is concerned. Whereas, also directed that it shall remove the construction at their own costs in case the concerned portion of land falls within the allotment of the respondents. The court has further directed that in case of sanction of plan, all the legal norms should be strictly followed by the present appellants.

7. Considering as above, the court is of the opinion that the appellants may not have any justifiable and cogent reasons to challenge the order dated September 19, 2025 of the Civil Judge (Senior Division), 1st Court at Contai, Purba Medinipur

insofar as the order has duly protected the interest of the appellants being the plaintiff before the court and not allowing the respondents to claim any equity at any point of time over the constructed portion.

8. In view of the above, this court is of considered opinion that there is hardly any justifiable reason to interfere with the order impugned dated September 19, 2025. Hence, this appeal may be dismissed.

9. For the reasons as discussed above, the appeal being FMAT 434 of 2025 along with CAN 1 of 2025 is dismissed.

10. However, the Civil Judge (Senior Division), 1st Court at Contai, Purba Medinipur is requested to take up this suit for final determination as expeditiously as possible without granting any unnecessary adjournments to any of the parties thereto.

(Rai Chattopadhyay, J.)

(Smita Das De, J.)