

AD -13
Ct No.16
10.12.2025
(SSS)

FMAT 452 of 2025
With
CAN 1 of 2025
With
CAN 2 of 2025

Trust Estate of Bankim Chandra Roy and Anr.
Vs.
Smt. Sandhya Dhar and Ors.

Mr. Aniruddha Chatterjee, Snr. Adv.
Mr. Rahul Karmakar,
Ms. Papiya Roy, Advs.
....For the Appellants.

Mr. Probal Kumar Mukherjee, Snr. Adv.,
Mr. Somnath Bose,
Mr. Saunak Bhattacharya, Advs.
....For the respondents.

1. We find from the application that sufficient reason for the delay in preferring the appeal has been made out. Accordingly, upon hearing learned counsel for the parties, CAN 2 of 2025 is allowed on contest, thereby condoning the delay in preferring FMAT 452 of 2025 without any order as to costs.

2. The appeal is now taken up for hearing under Order XLI Rule 11 of the Code of Civil Procedure.

3. The present appeal arises out of an order whereby both parties were directed to maintain *status quo* in respect of possession and enjoyment of the suit property as described in the plaint. Learned senior counsel appearing for the plaintiffs/appellants submits that the appellant

no. 2 is the surviving trustee of the appellant no. 1 trust, as against the defendants/respondents, who are respectively the sister, sister's son and own son of the plaintiff/appellant no. 2.

4. Learned senior counsel submits that in view of the plaintiffs/appellants not being in possession of the suit premises, the learned Trial Judge, by directing both parties to maintain *status quo* in respect of the suit property, has virtually ousted the plaintiffs from the property, which is contrary to the prayer made in the injunction application. In the temporary injunction application, the plaintiffs/appellants have prayed for an order of injunction restraining the respondents and/or their men and agents as well as associates from creating any obstruction and/or embargo to the appellant no. 2 to enter into the suit premises described in Schedule 'A'.

5. However, a bare perusal of the plaint, in conjunction with the injunction application, shows that the reliefs sought in the temporary injunction application were not maintainable at all, being contrary to the reliefs sought in the plaint.

6. In the same breath, in prayer (g) of the plaint, the plaintiffs/appellants seek mandatory injunction directing the defendants to vacate the suit property mentioned in Schedule 'A' and 'B',

which are respectively the entire property and a flat therein, while on the other hand, an injunction has been sought restraining the defendants from dealing with an iron chest lying inside the said premises.

7. It is a contradiction in terms that while admittedly the plaintiffs/appellants are not in possession of the immovable property, within which the Schedule 'C' iron chest is located, an injunction is sought seeking the defendants to hand over the key of the said iron chest in favour of the plaintiffs and also restraining the defendants from preventing the plaintiffs' ingress and egress to the suit property.

8. In any event, we do not find any illegality in the impugned order whereby the learned Trial Judge, despite the above gross discrepancies in the suit, granted an order of *status quo* restraining both parties from altering the possession and enjoyment of the suit property, which would protect the interest of both the parties and is in aid of the final relief sought in the suit, operating to protect the subject-property during pendency of the suit.

9. Accordingly, there is no scope of interference. Hence, FMAT 452 of 2025 is dismissed under Order XLI Rule 11 of the Code of Civil Procedure.

Consequently, CAN 1 of 2025 stands dismissed as well without any order as to costs.

10. The parties shall act on the server copy of this order, duly downloaded from the official website of this court.

(Sabyasachi Bhattacharyya, J.)

(Supratim Bhattacharya, J.)