

AD-07
Ct No.16
26.02.2025
TN

FMAT 405 of 2024
IA No: CAN 1 of 2024

Sri Anirban Mitra and another
Vs.
Smt. Annapurna Sarkar and others

Mr. Siddhartha Lahiri,
Mr. Subhashis Saha,
Ms. Nivedita Mullick

....for the appellants

Mr. Krishnendu Bera,
Mr. Raja Ghosh

....for the respondents

1. Affidavit-in-reply filed today be kept on record.
2. On consent of the parties, the appeal itself is taken up for hearing along with the application.
3. In a suit for declaration of title and injunction filed by the appellants, the appellants' prayer for ad interim injunction in connection with the temporary injunction application was refused.
4. It is an admitted position that the property has not yet been partitioned by metes and bounds and, as such, all the parties, being co-sharers, have equal right, title and interest over every inch of the property.
5. Thus, we are of the opinion that the learned Trial Judge acted illegally in refusing to grant ad interim injunction order to the plaintiffs/appellants.
6. Accordingly, FMAT 405 of 2024 is allowed on contest, thereby setting aside the impugned order and granting

injunction restraining the respondents from selling, transferring, alienating, encumbering and/or dealing with the suit property in any manner in favour of third parties till disposal of the temporary injunction application pending in the court below.

7. IA No: CAN 1 of 2024 is also disposed of accordingly.
8. The defendants/respondents shall file their written objection(s) to the temporary injunction application in the court below within a fortnight from date; reply, if any, shall be filed within one week thereafter.
9. The learned Trial Judge shall dispose of the temporary injunction application itself as expeditiously as possible, preferably within six weeks from the date of communication of this order to the said court, without being influenced in any manner by any of the observations made herein, independently and in accordance with law.
10. There will be no order as to costs.
11. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)