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11.9.2025
Ct. No. 16
SB

FMA 1239 of 2024
CAN 1 of 2023

Mridul Dey
Vs.
Tapas Dey & Ors.

Ms. Deblina Lahiri
Mr. Mrinmoy Chatterjee... for the appellant

1. In spite of service, respondents are not represented nor any accommodation has been prayed for on their behalf. Since the erstwhile advocate for the respondents has refused to accept service, notice was sent directly to the respondents and an affidavit of service to that effect filed in Court today is taken on record. The respondents have also not filed any affidavit-in-opposition to the instant application as directed by the Co-ordinate Bench on 21.3.2024.
2. It appears from the injunction application that three-fold prayer was made by the plaintiff out of which the first two prayer was considered but the third prayer relating to restraining the respondents from creating any third party interest till the final partition takes place was not considered at all. In a partition suit ordinarily, the parties should be directed to maintain *status quo* with regard to the nature, character and possession of the suit property and ordinarily shall not be permitted to raise construction. The learned Trial Court was recorded that there are eight co-sharers of the suit plot and each would be entitled to

allotment of specific portion in accordance with their shares to be declared in the said proceeding.

3. It is thus incumbent that no third party interest should be created to the disposal of the partition suit.
4. In view thereof, we dispose of the appeal and the application by restraining all the parties from alienating and / or disposing and / or encumbering their shares in the suit property without the express leave of the learned Trial Court.
5. We have been informed that the hearing of the suit has commenced. We request the learned Civil Judge, Senior Division to dispose of the suit as expeditiously as possible without granting any unnecessary adjournment to either of the parties.
6. A copy of the order be communicated to the respondents through speed post with acknowledgement due and the copy of this order shall also be filed before the learned Trial Court for information.
7. The appeal and the application are accordingly disposed of.

(Soumen Sen, J.)

(Apurba Sinha Ray, J)