

OD - 4

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE**

**THE HON'BLE JUSTICE SABYASACHI BHATTACHARYYA
-A N D-
THE HON'BLE JUSTICE UDAY KUMAR**

**APOT/110/2025
WITH
TS/26/2023
IA NO: GA/1/2025]
IN THE GOODS OF
NAND LAL TODI (DEC)
-A N D-
NEERAJ BAJORIA
VS
PAWAN KUMAR TODI AND ANR.**

For the Appellant : Mr. Anirban Ray, Sr. Advocate
Mr. Soumabho Ghose, Advocate
Ms. Tiana Bhattacharya, Advocate
Mr. Orijit Chatterjee, Advocate
Ms. Sabarni Mukherjee, Advocate

For Respondent No. 1 : Mr. S.N. Mitra, Sr. Advocate
Mr. Suman Dutta, Sr. Advocate
Mr. Rudrajit Sarkar, Advocate
Mr. Soumyadeep Sinha, Advocate
Mr. Sakabda Roy, Advocate
Ms. Suranjana Chatterjee, Advocate
Ms. Vanshika Nemar, Advocate

For Respondent No. 2 : Mr. Sanwal Tibrewal, Advocate
Mr. Shounak Mukhopadhyay, Advocate
Ms. Rachita Arora, Advocate
Ms. Sutapa Mitra, Advocate

Hearing Concluded on : 14.05.2025.

Judgement On : 14.05.2025.

SABYASACHI BHATTACHARYYA, J :

1. Affidavit of service filed in Court be kept on record.
2. The present appeal has been preferred against an order dated March 28, 2025 passed in a Testamentary Proceeding.
3. The appellant filed a probate application, which turned contentious upon being objected to and was registered as a suit. In GA/3/2025, filed in connection with the suit, the appellant sought injunction, both temporary and ad interim.
4. Upon hearing learned Senior Counsel appearing for the parties, we find that the impugned order is somewhere in-between, in the sense that GA/3/2025 had already been moved previously and no ad interim order was granted but the application has not yet been finally decided.
5. As such, the impugned order cannot be said to be the first occasion when there was a deemed refusal of the ad interim prayer made in GA/3/2025.
6. In the impugned order dated March 28, 2025, the learned Single Judge barely recorded the filing of affidavits and kept the matter for hearing on April 04, 2025.
7. We are informed that the learned Single Judge who passed the order impugned herein subsequently lost determination in the matter and as such the application bearing GA/3/2025 could not be heard.

8. Learned Senior Counsel appearing for the appellant presses for an interim order protecting the appellant in terms of the prayers made in GA/3/2025 before the learned Single Judge.
9. However, on a careful perusal of the impugned order, we find that no rights of either of the parties has been decided by the said order, nor can the same be said to be a “judgment” within the contemplation of the Letters Patent, to justify an appeal against the same. Hence, the present appeal is not maintainable in view of the impugned order not qualifying as a judgment where the rights and liabilities of the parties were decided in any manner, even tangentially.
10. Accordingly, APOT 110 of 2025 is dismissed on contest. Consequentially, GA/1/2025 stands disposed of as well.
11. It is made clear that the merits of the contentions of the parties have not been gone into by this Court, as will be evident from our above observations, and it will be open to the learned Single Judge taking up the suit to decide all issues independently in accordance with law without being prejudiced by any of the observations made hereinabove.

(SABYASACHI BHATTACHARYYA,J.)

I agree.

(UDAY KUMAR, J.)