

M/L.24.
May 4, 2026.
MNS.

FMA No. 186 of 2026
+
CAN 1 of 2026

Smt. Kedli Saha alias Kedali Saha
Vs.
Anil Kumar Saha and others

Mr. Chittapriya Ghosh, Adv.

... for the appellant.

1. The present challenge has been preferred against an order whereby the application filed by the objector/appellant in a probate proceeding for appointment of receiver has been dismissed.
2. The learned Trial Judge proceeded on the premise that there is already a subsisting order of injunction (*status quo*) and that no specific instances of the alleged misappropriation of property, on which premise the application could be entertained, was disclosed in the application.
3. From a perusal of the application for appointment of receiver, we find that there is no specific instance of misappropriation of the usufructs of the property pleaded therein. Moreover, there is not a single averment in the application for appointment of receiver filed in the testamentary court to indicate that there are tenants in

respect of the property or as to how the property is fetching income.

4. Thus, we do not find any illegality or perversity in the findings of the learned trial Judge.

5. During arguments, learned counsel for the appellant submits that even accounts of the income from the suit property have not been directed to be filed by the testamentary court.

6. However, apart from the fact that no such alternative prayer was made in the application, since the foundational fact of there being any source of income from the property has not even been averred in the receiver application, there was no scope for the learned trial Judge to consider the grant of such lesser relief of accounts on the basis of the pleadings.

7. Hence, since we do not find any illegality in the impugned order, there is no scope of interference.

8. Accordingly, FMA No. 186 of 2026 is dismissed under Order XLI Rule 11 of the Code of Civil Procedure.

9. Consequentially, CAN 1 of 2026 stands dismissed as well.

10. We make it clear that we have not entered into the merits of the contentions raised by the parties in the testamentary proceedings and the probate court shall be at liberty to consider the same in accordance with law without being influenced in any manner by the present appellant or the observations made above.

11. Urgent certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Biswaroop Chowdhury, J.) (Sabyasachi Bhattacharyya, J.)