

Form No.J(2)

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
Appellate Side

Present : The Hon'ble Mr. Justice Sabyasachi Bhattacharyya
&
The Hon'ble Mr. Justice Supratim Bhattacharya

FMA 351 of 2026
with
CAN 1 of 2026

Mohan Hazra and Ors.
Vs.
Kalipada Halder and Ors.

For the petitioner : Mr. Suman Sankar Chatterjee, Adv.

For the respondent : Mr. Mukteswar Maity,
Ms. Manika Sarkar,
Ms. Priyanka Yadav, Advs.

Heard on : June 29, 2026.

Judgment on : June 29, 2026.

Sabyasachi Bhattacharyya, J.:

1. Affidavit of service filed today be kept on record.

2. In view of the short question involved, the appeal, along with the application, are taken up for hearing together on consent of learned counsel for the parties.
3. The appeal arises out of an order of ad interim *status quo* passed in a partition suit.
4. The learned Trial Judge, while granting an ad-interim order of *status quo* restraining the defendants/appellants from obstructing the plaintiffs/respondents in constructing a boundary wall over the suit property, made contradictory observations. On the one hand, the learned Trial Judge observed that during pendency of a partition suit, in order to preserve the suit property, *status quo* is required to be granted and also granted *status quo* in respect of nature, character and joint possession of the suit property, while on the other, the learned Trial Judge held that the defendants/appellants cannot obstruct the plaintiffs/respondents from constructing a boundary wall over the suit property, even without specifying whether such boundary wall shall be constructed around the perimeter of the entire joint property or over/through the same.
5. Upon hearing learned counsel for the parties, we find the impugned order to be vitiated on such count.
6. Accordingly, FMA 351 of 2026 is partially allowed, thereby modifying the impugned order dated November 25, 2025 passed by the learned Civil Judge (Senior Division) at Basirhat, District –North 24 Parganas in Title suit No. 1138 of 2025 by setting aside the same to the

extent that the said order directed the defendants/appellants not to obstruct the plaintiffs from constructing boundary wall over the suit property.

7. Thus, in its modified form, the impugned order shall only be restricted to an order of *status quo* with regard to nature, character and joint possession of the suit property to be maintained by both parties till disposal of the temporary injunction application pending in the Trial Court.

8. It is expected that the learned Trial Judge shall dispose of the injunction application as early as the business of the said Court permits.

9. We make it clear that none of the above observations and/or the observations made hereinabove and in the impugned order shall be deemed to be conclusive and the learned Trial Judge shall dispose of the temporary injunction application on its own merits without being influenced by any of such observations in any manner.

10. CAN 1 of 2026 is also disposed of accordingly.

11. No order as to costs.

12. Urgent certified copies, if applied for, be supplied to the parties upon compliance of requisite formalities.

I agree.

(Sabyasachi Bhattacharyya, J.)

(Supratim Bhattacharya, J.)

AD-46
Ct No.16
29.06.2026
(SSS)