

13.01.2026

Item no.DL 35
Court No. 16

Asraf, A.R.(Ct.)

In the High Court at Calcutta

Civil Appellate Jurisdiction

Appellate Side

Case No. SAT 116 of 2025
with
CAN 1 of 2025
CAN 2 of 2025

In the matter of :

HARIYALI FOODS COMPANY PVT. LTD.

.... Appellant

VS.

NABANITA MUKHERJEE & ORS.

....Respondents

For the Appellant :

Mr. Prosenjit Mukherjee

Mr. Arghya Kamal Das

Mr. Bhaskar Sengupta

Ms. Babita Pramanik

....Advocates

In Re : I. A. No. CAN 1 of 2025

1. In view of sufficient explanation for the delay in preferring the appeal having been furnished, CAN 1 of 2025 is allowed on contest without costs, thereby condoning the delay in preferring SAT 116 of 2025.
2. The appeal is accordingly taken up for hearing under Order XLI Rule 11 of the Code of the Civil Procedure upon deeming that the defects therein to stand cured.

In Re : SAT 116 of 2025

3. The certified copy of the judgment and decree of the First Appellate Court filed today be kept on record.
4. The present appeal has been preferred against a judgment of affirmance, whereby the Trial Court passed a preliminary decree of partition, which was confirmed by the First Appellate Court.
5. The backdrop of the case is that one Paresh Nath Mukherjee, the original owner of the suit property, left behind his wife Manasi and four children, namely, Ankrit, Moumita, Nabanita and Srabanti as his only heirs and legal representatives. A transfer deed was executed by Manasi, for herself and on behalf of her minor son and daughter Ankit and Moumita, and by Nabanita and Srabanti in the year 1994 in respect of the suit property in favour of one Madhusudan.
6. The said Madhusudan transferred the suit property in the year 2015 in favour of the defendant / present appellant.
7. Subsequently Nabanita filed the present suit for partition and also challenged the deed of transfer executed in favour of Madhusudan insofar as Nabanita's share is concerned. Simultaneously,

Ankit and Moumita also challenged the transfer deed on the ground that the same was executed on their behalf by their mother but not for their benefit and without any valid permission from a competent Court of law.

8. The Courts below, while turning down the challenge of Ankit and Moumita to the transfer deed on the ground that they challenged the same beyond the statutory period of three years from attaining majority, the Courts below upheld the challenge of Nabanita, despite she having executed the transfer deed in favour of Madhusudan as a major, on the ground that on the basis of the materials on record, Nabanita established that she was still a minor when the 1994 deed was executed by her. Accordingly, by the impugned judgment and preliminary decree, both the Courts below declared 1/5th share of Nabanita in respect of the suit property, whereas did not disturb the title acquired in respect of the other 4/5th share by the defendant / appellant by the deed of 2015.

9. Learned counsel for the appellant argues that insofar as Nabanita is concerned, in view of her having executed the transfer deed herself, on the representation that she was a major on that date, she is bound by estoppel from challenging the

said deed long thereafter, particularly in view of the subsequent transfer deed having been executed by the transferee of Nabanita, namely, Madhusudan, in favour of the defendant / appellant in the year 2015. In support of his contention, learned counsel cites the judgment passed in the case of **Mohori Bibee & Anr. vs. Dharmodas Ghose** reported at VII CWN 441.

10. Upon hearing learned counsel for the appellant, we find that the ratio laid down in **Mohori Bibee (supra)** is not applicable to the present case. In the said report, it was held that there can be no estoppel if the truth of the matter is known to both parties and a false representation made to a person who knows it to be false, which is not such a fraud as to take away the privilege of infancy. In the facts of that case, it was held that where money has been advanced to an infant with full knowledge of his infancy, a Court can in the exercise of discretion conferred on it under the relevant Sections of the Specific Relief Act, refuse to order its return by the infant to the other party.

11. However, there are two gross distinctions between the facts of the said case and the present litigation. First, in the said case, the principle of estoppel was held to operate against the person who had made payments in favour of the infant,

and the infant had not represented himself as a major. Secondly, it was held that unless both parties had knowledge, there could not be any estoppel.

12. In the present case, the minor Nabanita, at the relevant point of time, is supposed to have had full knowledge of her minority but despite the same represented herself to be a major.
13. That apart, the question as to whether the principle of estoppel operates against the law was not discussed or adjudicated in the cited judgment.
14. In the present case, the principle of estoppel cannot be applied against Nabanita for the simple reason that at the relevant point of time when the transfer deed of 1994 was executed, Nabanita has been held by both the Courts below, on appreciation of evidence, to have been a minor.
15. Law provides that a minor cannot enter into a contract and consequentially a transaction in respect of any immovable property.
16. Hence, in order to apply the doctrine of estoppel against Nabanita, the said operation would be contrary to the law in respect of minors not being competent to enter into legal transactions. In view

of the settled proposition of law that there cannot be any estoppel against the law, thus, the contention of the appellant on the premise of estoppel against Nabanita cannot be accepted.

17. At best, for Nabanita having executed the deed by giving out herself to be a major, although still a minor (though on the verge of attaining majority then), the relief of the defendant / appellant would lie in damages. Thus, there is nothing precluding the appellant to claim damages in that regard insofar as Nabanita is concerned and, if so sought, the same has to be adjudicated in accordance with law by the appropriate Court, including the Court where the partition suit is now pending. Yet, the transfer of her share by Nabanita, then a minor, cannot be held to be valid, being contrary to law.

18. Thus, fact remains that the impugned judgments and decrees of both the Courts below cannot be set aside on the ground as taken by the appellant. Accordingly, we do not find any substantial question of law involved, particularly since the question of minority of Nabanita at the relevant juncture is purely a question of fact, which has been adjudicated concurrently by both the Courts below in favour of such minority on the basis of the evidence on record.

19. Hence, SAT 116 of 2025 is dismissed under Order XLI Rule 11 of the Code of Civil Procedure.
20. Consequentially, CAN 2 of 2025 stands disposed of as well.
21. There shall be no order as to costs.
22. Parties to act on the basis of server copy of this order, duly downloaded from the official website of this Court.
23. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties expeditiously after complying with all requisite formalities.

(Sabyasachi Bhattacharyya, J.)

(Supratim Bhattacharya, J.)