

AD – 12
Ct No.16
21.05.2026
(SSS)

FMAT 171 of 2026
with
CAN 1 of 2026

Samarendranath Mondal and Ors.
Vs.
Narayan Mondal and Ors.

Mr. Tapas Kumar Dey, Adv.
.....For the appellants.

1. Liberty is granted to the learned Advocate-on-record for the appellants to properly classify the appellants in the cause title of the memorandum of appeal and to rectify the preamble of the memorandum of appeal by incorporating the name of the learned Presiding Judge of the learned Trial Court.

2. Insofar as the second defect pointed out by the Additional Stamp Reporter is concerned, leave is granted to the learned advocate-on-record for the appellants also to insert a valuation statement in the memorandum of appeal. Since we find from the copy of the plaint, which has been annexed to CAN 1 of 2026, that the valuation of the suit from which the appeal arises is Rs.10,00,180/-, this

Court has pecuniary jurisdiction and as such, the appeal is taken up for hearing under Order XLI Rule 11 of the Code of Civil Procedure.

3. The present appeal has been preferred against an order of ad-interim *status quo* in respect of the nature, character and possession of the suit property, passed in connection with a partition suit.

4. Learned counsel appearing for the defendants/appellants argues that the defendants/appellants have already started construction and for such purpose have accumulated construction materials which, in the event of subsistence of the injunction order, would get deteriorated.

5. That apart, it is contended that there was a prior oral arrangement between the parties, by virtue of which there was an amicable partition of the suit property.

6. Be that as it may, such questions as sought to be raised by the defendants/appellants were not before the learned Trial Judge, since the injunction order, at the *ex parte* ad-interim stage, has to be granted on the premise of the pleadings and materials produced in connection with the plaint and temporary injunction application and

there cannot be any scope the defendants canvassing their version.

7. In any event, it will be open to the defendants/appellants to raise all such questions either by way of an application under Order XXXIX Rule 4 of the Code of Civil Procedure or by filing a written objection to the injunction application, which, we are apprised, has already been filed.

8. Accordingly, there is no scope of interference with the impugned order at this stage.

9. Hence, FMAT 171 of 2026 is dismissed under Order XLI Rule 11 of the Code of Civil Procedure.

10. CAN 1 of 2026 is also dismissed consequentially.

11. There will be no order as to costs.

12. It is made clear that the above observations and those made in the impugned order are tentative in nature and shall not prejudice the learned Trial Judge unnecessarily while adjudicating the temporary injunction application finally and/or at any other stage of the proceeding.

(Sabyasachi Bhattacharyya, J.)

(Biswaroop Chowdhury, J.)