

Form No. J(2)

In the High Court at Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present: The Hon'ble Justice Sabyasachi Bhattacharyya
And
The Hon'ble Justice Biswaroop Chowdhury

F.M.A.T. 212 of 2025
IA No: CAN 1 of 2025

Sri Madan Bera
Vs.
Mahadeb Bera and others

For the appellant : Mr. Siddhartha Sarkar
Mr. Sourav Gupta

For the respondent no. 1 : Mr. Tanmoy Mukherjee
Mr. Rudranil Das

Heard on : 07.05.2026

Judgment on : 07.05.2026

Sabyasachi Bhattacharyya, J.:-

1. In view of our previous direction, the appeal itself is taken up for hearing along with the application.
2. In a partition suit filed by the plaintiff/respondent, initially a status quo order was passed, which was made absolute by the impugned order dated March 29, 2025.
3. In his written objection, the defendant no.1/appellant categorically pointed out that the suit was bad for non-joinder of

necessary parties, being the three daughters of the original owner Satya Bera, who is the predecessor-in-interest of the parties.

4. Learned counsel for the appellant argues that the said point was glossed over by the learned Trial Judge in passing the order of status quo.
5. Learned counsel appearing for the plaintiff/respondent submits that it was pointed out to the trial court that the said three daughters had transferred their share of the suit property in favour of the plaintiff and as such, there was no occasion for the court to hold that the suit is bad for non-joinder of necessary parties.
6. That apart, it is pointed out that the learned Trial Judge also found that from the photographs it was depicted that the defendant no.1/appellant was violating the court's *ad interim* order of status quo, which also prompted the learned Judge to pass the impugned order.
7. Upon hearing learned counsel for the parties, since we find that the plaintiff/respondent seek to rely on registered documents which were not clearly mentioned or reflected in the impugned order but were apparently produced before the trial court, for the ends of justice, the learned Trial Judge ought to be directed to re-hear the injunction application and dispose of the same

afresh by considering the deeds sought to be relied on by the plaintiff/respondent in order to answer the issue as to whether the suit is bad for non-joinder of necessary parties or not, which has a direct bearing on the *prima facie* case made out by the plaintiff/respondent.

8. Accordingly, FMAT 212 of 2025 is allowed on contest, thereby setting aside the impugned order bearing Order No.13 dated March 29, 2025 passed in Title Suit No.141 of 2024 by the learned Civil Judge (Senior Division) at Ghatal and remanding the injunction application to the trial court for a fresh adjudication on merits upon granting opportunity to the respondents to produce the purported registered transfer deeds executed in their favour by the omitted daughters of the original owner Satya Bera and also affording an opportunity to the defendant no.1/appellant to controvert such documents/submissions of the plaintiff.
9. It is expected that the learned Trial Judge shall adjudicate the injunction application afresh after remand at the earliest, preferably within six weeks from the date of communication of this order to the trial court.
10. The status quo granted at the *ad interim* stage by the learned Trial Judge shall continue till a period of eight weeks from date

or until disposal of the temporary injunction application afresh, whichever is earlier.

- 11.** Liberty to the parties to apply before the trial court for vacating/variation/extension of the interim order granted by us on satisfaction of cogent grounds therefore.
- 12.** Consequentially, CAN 1 of 2025 is also disposed of.
- 13.** There will be no order as to costs.
- 14.** Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)

I agree.

(Biswaroop Chowdhury, J.)

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