

AD – 4
Ct No.16
21.05.2026
(SSS)

FMAT 254 of 2025
with
CAN 1 of 2025

Goutam Dey
Vs.
Santosh Kedia and Ors.

Mr. Ayan Mitra, Advs.
.....For the appellant.

Mr. Tapas Kumar Dey,
Mr. Rakesh Ray, Advs.
....For the respondents.

1. The present appeal has been preferred against an order whereby the defendants' application under Order XXXIX Rule 4 of the Code of Civil Procedure was allowed, vacating an ad-interim injunction order obtained initially by the plaintiff/appellant.

2. Learned counsel for the appellant submits that one Subhas was admittedly an owner of the suit property, having derived title from Jugal, one of the original co-owners. The legal heirs of Subhas, after his demise, sold the suit property to the plaintiff/appellant. Prior to such purchase, the plaintiff conducted searches as well as made paper publications, to which nobody responded.

As such, being assured of the title of his vendor, the property was purchased by the plaintiff. Subsequently, the defendant no. 1 set up a plea that he had purchased the entire property of Subhas prior to the transfer in favour of the plaintiff/appellant, amounting to 130 decimals of land.

3. Learned counsel for the appellant submits that the defendant /respondent no. 1 has manipulated the authorities and allegedly tampered with the records of rights. That apart, it is submitted that the registered title deed executed in favour of the appellant at least *prima facie* shows conferment of title in favour of the plaintiff/appellant. As such, it is contended that the interim order of injunction could not have been vacated.

4. However, on a perusal of the impugned order, we find that the learned Trial Judge came to a clear finding that Subhas Chandra Khan, the grand predecessor-in-interest of the plaintiff/appellant, during his lifetime, had transferred his total share in respect of the suit property, measuring about 130 decimals, by way of two registered deeds. It was further observed that therefore, the transfer made by the legal heirs of Subhas in the year 2022 (subsequent to the earlier transfer) in favour of the plaintiff was

not valid in the eye of law because at the time of transfer, the legal heirs of Subhas Chandra Khan had no valid title with them.

5. Hence, since such fact was not disclosed in the injunction application, it tantamounts to a material suppression vitiating the ad-interim order.

6. The learned Trial Judge also was justified in recording that the entries in the LR Records of Rights do not confer any title, being pitted against a prior transfer deed.

7. We do not find any illegality in the impugned order. Accordingly, FMAT 254 of 2025 is dismissed under Order XLI Rule 11 of the Code of Civil Procedure. Consequentially, CAN 1 of 2025 is also dismissed.

8. There will be no order as to costs.

9. Photostat certified copies of this order, if applied for, be furnished to the parties on compliance of due formalities.

(Sabyasachi Bhattacharyya, J.)

(Biswaroop Chowdhury, J.)