Form No. J(2)

In the High Court at Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present: The Hon'be Justice Sabyasachi Bhattacharyya
And
The Hon'ble Justice Sandip Kumar De

F.M.A.T 333 of 2026
IA No: CAN 1 of 2026

Sk. Abdar Rahman
Vs.
Abdul Malek Sardar and others

For the appellant	:	Mr. Tanmoy Mukherjee Mr. Animesh Paul
For the respondents	:	Mr. Dhananjay Banerjee Mr. Surajit Basu Mr. Archan Datta Mr. Mahiul Islam
Heard on	:	18.09.2026 and 05.10.2026
Judgment on	:	05.10.2026

Sabyasachi Bhattacharyya, J.:-

1. Affidavit-of-service filed in court today be kept on record.

2. The present appeal has been preferred against an order of status quo with regard to nature, character, transfer and joint possession of the suit property till disposal of the suit, while disposing of a temporary injunction application filed by the plaintiffs/respondent nos.1 to 5 in a suit for partition.

3. Learned counsel for the appellant points out that the learned Trial Judge, while disposing of the temporary injunction application finally, did not advert to the case of either of the parties explicitly, particularly in view of the defendant/appellant having raised several objections on merits to the injunction application.

4. It is submitted that the case of the defendant/appellant is, *inter alia*, that before the alleged purchase of shares of the suit property by the plaintiffs, the grand predecessor-in-interest of the appellant had purchased the entirety of the suit property along with other properties, thereby ruling out any title having passed in favour of the plaintiffs by the alleged subsequent transfers.

5. It is submitted by learned counsel for the appellant that none of the said objections have been even adjudicated upon specifically in the impugned judgment.

6. Learned counsel appearing for the plaintiffs/respondent nos.1 to 5 opposes the appeal and submits that the learned Trial Judge recorded in a nutshell the plaint case and as such the impugned order ought not to be interfered with.

7. Upon a perusal of the temporary injunction application and the written objection filed thereto in conjunction with the impugned order, we find substance in the contention of the appellant to the effect that the learned Trial Judge, in a cursory manner,

merely recorded that the plaint and the injunction application and the documents relied on by the parties were perused, without dealing with the specific case made out by either of the parties.

8. The several serious objections raised by the defendant/appellant were germane for a proper adjudication of the temporary injunction application, which was not done by the learned Trial Judge at all.

9. Accordingly, the impugned order cannot be sustained.

10. However, for the ends of justice, since the learned Trial Judge recorded *prima facie* satisfaction, this court is of the opinion that although the temporary injunction application ought to be re-heard on merits, there should be some protection afforded to the plaintiffs till the temporary injunction is finally heard out upon remand.

11. In such view of the matter, FMAT 333 of 2026 is allowed on contest, thereby setting aside Order No.18 dated June 30, 2026 passed by the learned Civil Judge (Senior Division) at Basirhat, District-North 24 Parganas in Title Suit No.809 of 2024 and remanding the temporary injunction application to be re-heard on merits and adjudicated afresh by the learned Trial Judge upon assigning proper reasons, in the light of the observations made above.

12. It is expected that such re-hearing shall be concluded and the temporary injunction application shall be disposed of after remand as expeditiously as possible, positively within a fortnight from the reopening the trial court after the upcoming Annual Vacation.

13. Both parties shall maintain status quo with regard to nature, character, transfer and possession of the suit property till disposal of the temporary injunction application.

14. It is made clear that this court has not conclusively decided any of the contentious issues involved in the suit or the temporary injunction application and the learned Trial Court shall be absolutely free to come to its own conclusions while hearing and disposing of the temporary injunction application afresh.

15. CAN 1 of 2026 is consequentially disposed of as well.

16. There will be no order as to costs.

17. Urgent Photostat certified copies of this judgment, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)

I agree.

(Sandip Kumar De, J.)

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