

14th January,
2026
(AK)
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F.M.A. 1716 of 2025
IA No: CAN 1 of 2025

Dipak Das and another
Vs.
Asim Kumar Hansda and others

Mr. Dyutiman Banerjee
Mr. Salil Kr. Maity
Mr. Ayanava Das
Mr. Debjit Dutta

...for the appellants.

1. The present challenge has been preferred against an order whereby a temporary injunction application filed by the plaintiffs/respondents in a partition suit was allowed, thereby directing both parties to maintain status quo in respect of nature, character and possession of the suit property till disposal of the suit.
2. Learned counsel for the appellants argues that the partition suit itself is not maintainable in view of the plaintiffs having pleaded in paragraph no.3 of the plaint that the father of the present defendants, namely Shaktipada Das, used to forcibly possess a portion of the suit property demarcated as schedule A/1 and built a house thereon.
3. Learned counsel places reliance on the relevant paragraph, that is, paragraph no.11 of the written statement to show that the defendants/appellants,

on the other hand, have claimed adverse possession over the suit property.

4. Learned counsel for the appellants argues that since the suit for the relief of partition, as framed, is not maintainable in view of the admission of the plaintiffs that the defendants/appellants' father did not have any title in the property but forcibly possessed the same, the learned Trial Judge erred in law in granting injunction.
5. It is contended that the maintainability of the suit is a component of the *prima facie* case.
6. It is further submitted by the appellants that on the facts pleaded, the injunction order could not have been passed, particularly since it has been admitted that already a house has been constructed on a portion of the property by the father of the defendants/appellants.
7. On a careful perusal of the plaint, we, however, find that the contentions of the appellants cannot be entirely accepted.
8. It is a trite principle that the pleadings of parties have to be harmoniously construed as a whole and isolated excerpts from the same cannot be taken out of context in order to examine the nature of the pleadings.
9. Following such principle, paragraph no.3, read with paragraph no.4, of the plaint clearly indicates the

plaint case that the father of the defendants/appellants, namely, Shaktipada Das was a co-sharer of the suit property, upon whose demise the present defendants/appellants have inherited jointly the property held by Shaktipada Das.

10. Insofar as the averment in paragraph no.3 regarding Shaktipada having forcibly possessed a particular portion of the suit property is concerned, the same in the nature of a pleading of attempted ouster and does not *per se* deny the title of Shaktipada as a co-sharer of the suit property.
11. Moreover, since the very premise of the partition suit is that the defendants are co-owners and their specific shares have also been delineated in paragraph no.4 of the plaint, it cannot be said at this juncture that the partition suit is not maintainable.
12. In such view of the matter, we are of the opinion that the learned Trial Judge was justified in passing an order of status quo, since it is a well-settled proposition of law that during pendency of a partition suit, in aid of the final relief sought, the subject property ought to be maintained *in statu quo*.
13. Accordingly, we do not find any illegality in the impugned order.

14. Hence, FMA 1716 of 2025 is dismissed under Order XLI Rule 11 of the Code of Civil Procedure.
15. Consequentially, CAN 1 of 2025 stands dismissed as well.
16. There will be no order as to costs.
17. It is made clear that the learned Trial Judge shall dispose of the suit, from which the present appeal arises, independently and in accordance with law without being influenced in any manner by the observations made herein insofar as the merits of the respective contentions of the parties are concerned.
18. Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)

(Supratim Bhattacharya, J.)