12th November,
2026
(AK)
25

FMA 1200 of 2026
IA No: CAN 1 of 2026

Sk. Md. Taj and Taj and another
Vs.
Sk. Jahiruddin and others

Mr. Debasish Roy, Sr. Adv.
Mr. Bidyut Baran Biswas
....for the appellants.

1. The present challenge has been preferred against an order whereby temporary injunction was granted in a partition suit filed by the plaintiffs/respondents.
2. Learned senior counsel appearing for the defendants/appellants argues that the defendants/appellants purchased the relevant portion of the suit property, which is comprised of several shop rooms, upon which the appellants entered duly into agreements with the tenants inhabiting those for the purpose of remodelling, re-constructing and repairing the said properties and thereafter, to hand possession back to the tenants.
3. Only after the lapse of considerable time thereafter, the plaintiffs have filed the present suit and have obtained the impugned order of injunction.
4. It is submitted that the balance of convenience and inconvenience, thus, is against the grant of injunction, as a specifically demarcated portion of

the suit property was purchased by the appellants and the appellants have acted upon such purchase, creating valuable rights in favour of third party-tenants as well.

5. However, we find from the averments made in the injunction application as well as from the arguments of the appellants that the appellants claim their title to a specific demarcated portion of the subject property by dint of a transfer deed executed by some of the co-sharers, and not all the co-owners of the suit property.

6. Thus, the effect thereof would be that the transfer would be confined only to the shares of the vendors/co-sharers in respect of the subject property and shall not confer exclusive right, title and interest in favour of the purchasers, since all the other co-owners also have equal title over every inch of the said property.

7. Learned senior counsel further argues that the present order would also preclude the appellants from carrying out necessary repair works to make the subject property habitable.

8. However, we find from the impugned order that *status quo* has been granted thereby against both parties restraining them merely to change the nature and character of the 'Ka' schedule property till the disposal of the suit, which does not, *per se*,

preclude repair works being done with the leave of the court.

9. Accordingly, we do not find that the impugned order precludes the appellants in any manner from taking out an appropriate application for repair of the suit property without changing the nature and character thereof, upon which the trial court shall be at liberty to decide the same on its own merits upon giving opportunity to all parties to contest such application.

10. Thus, we find that there is no scope of interference with the impugned order restraining both parties from changing the nature and character of the suit property.

11. Accordingly, FMA 1200 of 2026 is dismissed under Order XLI Rule 11 of the Code of Civil Procedure in the light of the above observations.

12. Consequentially, CAN 1 of 2026 is also disposed of.

13. There will be no order as to costs.

14. Urgent photostat certified copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)

(Md. Shabbar Rashidi, J.)