

Form No.J(2)

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
Appellate Side

Present : The Hon'ble Mr. Justice Sabyasachi Bhattacharyya
&
The Hon'ble Mr. Justice Biswaroop Chowdhury

FMA No. 1723 of 2025
+
CAN 1 of 2025

Sri Rajendra Prasad Chatterjee
Vs.
Smt. Madhumita Chatterjee and others

For the appellant : Mr. Subhrendu Halder,
Mr. Abhirup Haldar,
Mr. Debasum Biswas.

For the respondent
nos.3 to 5 : Mr. Sounak Bhattacharya,
Mr. Anirban Saha Roy,
Ms. Bipasha Bhattacharyya,
Mr. Sounak Mondal.

Heard on : February 5, 2026.

Judgment on : February 5, 2026.

Sabyasachi Bhattacharyya, J.:

1. On consent of the parties, both the appeal and the application are taken up for hearing together in view of the short ambit of the issues involved.

2. The present appeal has been preferred against the refusal of the plaintiff/appellant's prayer for ad interim injunction in a suit for partition.
3. The premise of refusal of ad interim injunction apparently was that there was no specific overt act on the part of the defendants alleged in the plaint and the injunction application and that the plaint did not disclose whether there was any dwelling house over the suit properties or not.
4. Upon hearing learned counsel for the parties, we find that the mention of any dwelling house specifically is immaterial, as long as the suit property has been described properly.
5. Learned counsel for the contesting respondent no. 3 to 5 points out that some portions of the suit property have already been transferred.
6. Such submission itself indicates the implicit urgency involved in the matter.
7. That apart, we find from the injunction application filed in the trial Court that the plaintiff/appellant has alleged therein in the present continuous tense that the defendants are threatening to transfer the suit property in favour of third parties. Thus,

urgency was pleaded till the date of filing of the injunction application.

8. At the ad interim stage, in the absence of any controversy from the end of the contesting defendants, it is the averments made in the injunction application which are to be deemed as sacrosanct, unless rebutted at a further stage of hearing of the injunction application. On such premise, we find the impugned order to be *de hors* the law and the facts which were before the learned trial Judge.
9. Moreover, the learned trial Judge failed to appreciate the specific averments in the injunction application by holding that no overt act of the defendants was specifically pleaded in such application.
10. In such view of the matter, FMA No. 1723 of 2025 is allowed on contest, thereby setting aside the impugned order, bearing Order No. 2 dated September 9, 2025 passed by the learned Civil Judge (Senior Division) at Arambagh, District – Hooghly, in Partition Suit No. 156 of 2025 and restraining the contesting defendants/respondents and/or their men and agents by an order of injunction from selling, transferring, alienating and/or encumbering the suit property and/or

changing the nature and character thereof as well as altering the *status quo* with regard to possession in respect of the suit property till disposal of the temporary injunction application pending in the trial Court.

11. The contesting defendants/respondents are directed to file their written objection to the said temporary injunction application within a fortnight from date.
12. Upon such objection being filed, the learned trial Judge shall make all endeavour to dispose of the injunction application as expeditiously thereafter as possible on merits, preferably within four weeks after filing of the written objection by the contesting defendants/respondents.
13. It is made clear that we have not entered into the merits of the case and the aforesaid findings are tentative insofar as the disposal of the main temporary injunction application as well as the suit are concerned, and the learned trial Judge shall dispose of the injunction application pending before the said Court as well as the suit independently, without being influenced in any manner by any of the observations made above.
14. CAN 1 of 2025 is also disposed of accordingly.

15. There will be no order as to costs.

16. The parties as well as all concerned shall act on the server copy of this order for the purpose of compliance, without insisting upon prior production of the certified copy of this order.

I agree.

(Sabyasachi Bhattacharyya, J.)

(Biswaroop Chowdhury, J.)