

Form No. J(2)

In the High Court at Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present: The Hon'ble Justice Sabyasachi Bhattacharyya
And
The Hon'ble Justice Supratim Bhattacharya

FMA 414 of 2026
IA No: CAN 1 of 2025

Sri Shantinath Ghosh and others
Vs.
Sri Sridhar Ghosh and others

For the appellants : Mr. Debdipto Banerjee,
Mr. Priyangit Kundu,
Ms. Snigdha Saha

For the respondent nos.
6-9, 10(a), 11-16 & 18 : Mr. Uttiya Ray,
Mr. Atish Santra

Heard on : 30.06.2026

Judgment on : 30.06.2026

Sabyasachi Bhattacharyya, J.:-

1. On consent of learned counsel for the parties, the appeal itself is taken up for hearing along with the application. From the affidavit-of-service, it transpires that due service has been effected on the absentee respondents as well. However, only the respondent nos. 6-9, 10(a), 11-16 and 18 are represented along with the appellants today.
2. In a partition suit filed by the plaintiffs/appellants, the learned Trial Judge, by the impugned order, refused to grant ad interim injunction

only on the ground that no prayer for permanent injunction has been made in the plaint, holding that prayers for temporary injunction cannot be sustained in the absence of any such prayer in the plaint.

3. Upon hearing learned counsel for the parties, we find that in the impugned order, the learned Trial Judge *prima facie* held that the names of the parties find place in the records of rights. There is nothing in the impugned order to construe that the learned Trial Judge was dissatisfied with the *prima facie* case made out by the plaintiffs regarding their title and joint possession in the partition suit otherwise. Thus, we cannot agree with the sole ground of refusal of ad interim injunction, since it is a well-settled principle of law that in a suit for partition, the endeavour of the Court is to maintain the property *in statu quo* during pendency of the suit.
4. Even otherwise, on the averments made in the temporary injunction application, at the ad interim stage, the plaintiffs/appellants were entitled to injunction.
5. Accordingly, FMA 414 of 2026 is allowed on contest, thereby setting aside the impugned order, bearing Order No. 2 dated September 25, 2025 passed by the learned Civil Judge (Senior Division), First Additional Court at Burdwan in Title Suit No. 410 of 2025, and granting injunction restraining the respondents from changing the nature and character of the suit property till disposal of the temporary injunction application in the Trial Court.
6. The respondents shall file their written objection to the temporary injunction application in the Trial Court within three weeks from date.

7. It is expected that the learned Trial Judge shall dispose of the temporary injunction application as soon thereafter as the business of the Court permits, preferably by the end of August, 2026.
8. It is made clear that the above observations as well as the observations made in the impugned order are tentative in nature and shall not weigh with the learned Trial Judge in any manner whatsoever at the time of final disposal of the temporary injunction application.
9. CAN 1 of 2025 is also disposed of consequentially.
10. There will be no order as to costs.
11. Urgent certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)

I agree.

(Supratim Bhattacharya, J.)