

5th May,
2025
(AK)
35

F.M.A. 659 of 2025
IA No: CAN 1 of 2025

Swapan Belel
Vs.
Tapan Belel and others

Mr. Gautam Das

...for the appellant.

Ms. Pampa Dey (Dhabal)
Mr. Biswarup Chatterjee

...for the respondent nos.10-14.

1. The present appeal has been preferred against an order whereby the plaintiffs' prayer for *ad interim* injunction was refused.
2. The matter arises out of a suit for partition.
3. In the plaint as well as the injunction application filed in connection therewith, the plaintiffs categorically alleged that the defendants are trying to sell and transfer the suit property to third parties by taking huge money and are trying to change the nature and character of the same.
4. The plaintiffs have also alleged that the defendant nos.1 to 3, representing themselves as the sole

owners of the property, are trying to demolish the suit property and thereafter to promote the same by engaging promoters by taking huge amount of money from the promoter, for which purpose they are trying to make new construction of a building at the suit premises.

5. However, in the impugned order, the learned trial Judge, despite recording that the plaintiffs have alleged that the defendant nos.1 to 3 are trying to transfer the suit property and are trying to develop the property by engaging a promoter, observed that the said allegations are contradictory.
6. Also, it was recorded in the impugned order that there is no allegation of any overt act on the part of the defendants.
7. However, *prima facie*, we fail to understand as to what else the plaintiffs could have averred than what has been indicated above by way of overt act on the part of the defendants.
8. Moreover, the alleged attempts of the defendant nos.1 to 3 to transfer the suit property cannot be construed to be contradictory with the further allegation that the defendants are trying to develop the property by engaging a promoter, since there

may not be any contradiction between an attempt on the part of the said defendants to transfer as well as to have the property developed.

9. Even otherwise, we find from the annexures that a *prima facie* case for grant of injunction was made out.
10. Accordingly, FMA 659 of 2025 is admitted and shall be heard on the grounds taken in the Memorandum of Appeal.
11. In view of a strong *prima facie* case for grant of injunction having been made out, as indicated above, we hereby grant injunction restraining the respondent nos.1 to 3 and/or their men and agents from selling, transferring, alienating and/or encumbering the suit property in favour of any third party and/or from changing the nature and character of the suit property in any manner during pendency of the application.
12. The appellant shall serve copies of the application on the respondent nos.1 to 3 indicating that the application shall be listed for hearing on May 19, 2025, when an affidavit-of-service to that effect shall be filed by the appellant.

13. Since no relief has been claimed against the other defendants/respondent nos.4 to 9, service of notice on the said respondents is dispensed with.
14. As the respondent nos.10 to 14, who are co-plaintiffs with the present appellant in the trial court, have already entered appearance through their learned Advocate, service on the said respondents is dispensed with as well.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)