

D/L.18.  
July 16, 2025.  
MNS.

FMAT No. 212 of 2025  
+  
CAN 1 of 2025

Sri Madan Bera  
Vs.  
Mahadeb Bera and others

Mr. Siddhartha Sarkar

... for the appellant.

1. Learned counsel for the appellant submits that the impugned order suffers from gross illegality inasmuch as in the partition suit, from which the present appeal arises, an injunction application was allowed by the impugned order in the teeth of the written objection of the defendant no. 1/appellant to the effect that the sisters of the plaintiff were not impleaded in the suit, thereby rendering the partition suit bad for non-joinder of necessary parties.
2. The learned trial Judge glossed over the issue by observing that the parties to the suit have their proportionate shares in the suit property and granted injunction in the form of *status quo* without advertent at all to the issue as to non-maintainability of the suit for partition for non-joinder of parties.

3. Hence, FMAT No. 212 of 2025 is admitted and shall be heard on the above questions and the other grounds taken in the Memorandum of Appeal.

Re: CAN 1 of 2025 (stay application)

4. The appellant shall serve copies of the appeal and the application on the respondent no. 1, indicating that the appeal and the application shall be taken up for hearing on the papers already on record on the returnable date.

5. The appellant shall file an affidavit-of-service to that effect on the returnable date.

6. Since no relief has been claimed against them, service upon the respondent nos. 2 to 18 is dispensed with for the present.

7. The matter shall be listed under the heading "Application" in the monthly list of August, 2025 with an understanding that the appeal and the application shall be taken up for hearing together.

8. The server copy of this order shall also be served on the respondent no. 1 by the appellant forthwith.

(Uday Kumar, J.)

(Sabyasachi Bhattacharyya, J.)