

D/L.12.  
May 19, 2026.  
MNS.

FMA No. 843 of 2023

Dhirendra Nath Mondal  
Vs.  
Mansur Sk and others

Ms. Subhangi Bhattacharya

... for the appellant.

1. The present appeal arises out of the dismissal of a temporary injunction application filed by the plaintiff/appellant in a suit for partition.
2. The case of the plaintiff is that the suit property is jointly owned by all the parties.
3. On the contrary, the defendants/respondents produced a purported registered deed, bearing Deed No. 50 of 1980, on the strength of which it is submitted that 7.5 decimals out of the total suit property was exclusively sold out by the plaintiff/appellant.
4. Per contra, the plaintiff has produced a deed, bearing Deed No. 53 of 1980, executed by the same parties in respect of the same portion of the subject property, which is also a registered deed, from which it transpires that there was a mutual arrangement between the parties in terms of which 7.5 decimals was not exclusively transferred by the plaintiff.
5. Although we are apprised that till date there is no specific relief claimed in the suit challenging Deed No. 50 of 1980, all the same, both the deeds were before the

learned trial Court and the learned trial Court, in the impugned order, observed, *inter alia*, that some doubts obviously appeared and the legality or validity of the deeds are in question. Even otherwise, the learned trial Judge came to the conclusion that the half share of the plaintiff and sale up to 29.5 decimals in the suit property has not been denied by the defendants/respondents.

6. In such view of the matter, *prima facie* triable issues were raised in the suit, which was also found by the learned trial Judge. Still, the learned trial Judge, on the pretext that intricate facts are involved, refused to grant injunction.

7. It is well-settled that the endeavour of the court ordinarily, in a partition suit, is to preserve the suit property *in statu quo* till disposal of the suit. Thus, sufficient *prima facie* case was made out by the plaintiff/appellant for granting temporary injunction.

8. Hence, FMA No. 843 of 2023 is admitted, to be heard on the above grounds and the other grounds taken in the memorandum of appeal.

9. On the prayer of learned counsel for the appellants, leave is granted to the appellant to file an injunction application in connection with the present appeal

(Biswaroop Chowdhury, J.) (Sabyasachi Bhattacharyya, J.)