

18th March,
2025
(AK)
12

F.A. 86 of 2025
IA No: CAN 1 of 2024

Sri Dibyendu Mondal and others
Vs.
Smt. Arpita Bej and others

Mr. Arnab Roy
Mr. Satyam Mukherjee
...for the appellants.

Mr. Amarendra Nath Ray
Mr. N. Chandan Dey
...for the respondent no.1.

In Re: CAN 1 of 2024

1. Supplementary affidavit filed today on behalf of the appellants, pursuant to the Court's order, is kept on record.
2. We find therefrom that sufficient explanation has been given, to the effect that the deponent in the application for stay was authorized by the other appellants to affirm the application on their behalf.
3. Learned counsel for the respondent no.1 further points out that the father's names of two of the appellants, that is, appellant nos.3 and 7 have not been disclosed in the cause title of the Memorandum or the stay application.
4. We grant leave to the learned Advocate-on-record for the appellants to incorporate the names of the

fathers of respondent nos.3 and 7 respectively in the cause titles of the stay application as well as the Memorandum of Appeal by tomorrow (19.03.2025).

5. The present appeal arises against a judgment and preliminary decree passed in a partition suit whereby a decree was also passed cancelling/declaring invalid a previous partition decree entered into between the predecessors-in-interest of the parties.
6. Since the suit is at the final decree proceeding stage, we direct the learned trial Judge to continue with the final decree proceedings.
7. However, the learned trial Judge shall not draw up any final decree without the prior leave of this court till disposal of the appeal.
8. CAN 1 of 2024 is disposed of on contest accordingly in the light of the above observations but without any order as to costs.
9. In view of the appearance of the plaintiff/respondent no.1 through her learned Advocate, service of notice of appeal on the said respondent is dispensed with.
10. The appellants shall put in requisites and postal costs for service of notice of the appeal on the respondent nos.2 to 5 within a week from date.

11. The trial court records shall be called for, upon retention of a skeletal record for continuation with the final decree proceedings, by special messenger at the cost of the appellants, to be deposited within a week from date.
12. The appellants shall prepare and file the requisite number of paper books within eight weeks from the date of service of notice of arrival of the trial court records on the learned Advocate for the appellants.
13. Liberty to the parties to mention the appeal for enlistment as and when the same is ready for hearing.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)