



27.09.2022
SL No.10
Court No.8
(gc)

FA 141 of 2022
CAN 1 of 2016 (Old No: CAN 3835 of 2016)
CAN 2 of 2022

Smt. Suman Ray & Anr.
Vs.
Sri Anil Karmakar & Ors.

Ms. Nilanjana Adhya,
Mr. Abhishek Agarwal,
...for the Appellant/Petitioner No.1.

In spite of service, Smt. Sandhya Roy and Smt. Kanak Majumder are not represented. However, the service is incomplete in respect of Sri Anil Karmakar and Sri Tarun Kumar Karmakar. The postal envelopes were returned with the remarks “insufficient address”.

The petitioner No.1 during the pendency of the appeal filed an application being CAN 3835 of 2016 for addition of Smt. Sandhya Roy, Smt. Kanak Majumder and Sri Tarun Kumar Karmakar as respondent Nos.3, 4 and 5. In view of the information received by the petitioner No.1 that on the basis of the probate, the land in question was transferred by a registered deed of gift on 17th February, 2016 in favour of the proposed added respondents by Sri Anil Karmakar, Sri Anil Karmakar was the executor and beneficiary. The application appears to have been filed on 15th April, 2016 but was never moved. Thereafter, CAN 2 of 2022 was filed praying for an order of stay and injunction. There is nothing on record suggesting that the



earlier application was ever served upon the persons who have purchased the property from Sri Anil Karmakar. The stay petition was also not filed contemporaneously. The proposed persons to be added respondents are also not represented.

Without giving an opportunity to the respondent and the persons proposed to be added in this proceeding, we are not inclined to pass any interim order at this stage.

We direct Sri Anil Karmakar, Smt. Sandhya Roy, Smt. Kanak Majumder and Sri Tarun Kumar Karmakar to file affidavit-in-opposition in CAN 3835 of 2016 and CAN 2 of 2022 on or before 11th November, 2022. Reply thereto, if any, shall be filed on or before 18th November, 2022.

The matter shall be listed on 23rd November, 2022 under the heading **“Application”**.

Let the Lower Court’s Record of this case be called for by the department in the meantime. The L.C.R. should be made available on 23rd November, 2022 when the applications are to be listed for further consideration.

The petitioner is directed to communicate this order to Sri Anil Karmakar and three other persons at the last known address and file an affidavit of service on the adjourned date.

(Uday Kumar, J.)

(Soumen Sen, J.)