

28. 07.04.2026.  
Court No.07.

(Pritam)

**Calcutta High Court  
In the Circuit Bench at Jalpaiguri  
Appellate Side.**

**FMAT 18 of 2025  
with  
CAN 1 of 2025  
with  
CAN 2 of 2025.**

**Ashok Kumar Ray @ Ashok Roy.**

**-Vs.-**

**Amit Agarwal & Ors.**

Mr. Bapi Sarkar,  
Mr. Roumyadip Saha.

.....for the appellant.

Mr. Abhilash Mittal,  
Mr. Chanchal Agarwal.

....for the respondent nos.1 to 12.

**Dictated By :- Prasenjit Biswas, J.**

**In Re :- CAN 2 of 2025.**

1. An application seeking substitution of the heirs/legal representatives of the deceased sole appellant, Ashok Kumar Ray @ Ashok Roy, who expired on 26.09.2025.
2. The appellant is plaintiff before the Trial Court. In a suit for cancellation of an agreement to sale and declaratory relief as regards ownership of the suit land in favour of the plaintiff. The plaintiff also prayed for a decree of eviction of the defendants from the suit land and permanent injunction.

3. The Trial Court by its order dated 15.07.2025 passed in Title Suit No.128 of 2025 refused a prayer for interim relief under Order 39 Rules 1 and 2 read with Section 151 CPC. The order of rejection dated 15.07.2025 is the subject matter of the present appeal.
4. The case of the appellant is that he was under the impression that he was entering into a development agreement with the respondents/developers. Subsequently, the appellant discovered that the documents executed by him had allegedly been converted into an agreement for sale as well as a deed of sale, contrary to his understanding and intent.
5. It is stated that during the pendency of this appeal, the sole appellant expired on 26.09.2025, leaving behind his legal heirs/petitioners as mentioned in paragraph 3 of the petition. The petitioners are major and sui juris. It is affirmed that, save and except these petitioners, there are no other heirs of the deceased appellant and that the right to continue the appeal survives in their favour.
6. In view of the above facts, we are of the considered opinion that there is no legal impediment to allow the prayer for substitution.

The petitioners, being the heirs and legal representatives of the deceased appellant, shall be brought on record in his place and stead.

7. The department is directed to make the necessary amendments in this regard.

8. Accordingly, the application being CAN 2 of 2025 is **allowed**.

**In Re :- FMAT 18 of 2025.**

9. The parties have made submissions, from which we find that a Co-ordinate Bench of this Court was pleased to grant an ad-interim order directing status quo in respect of the nature, character, possession, as well as transfer and/or alienation and/or creation of any third-party interest in relation to the subject property, until the disposal of the application. The operative part of the order of status quo dated 01.08.2025 reads as follows:

*"The parties shall maintain status quo as regards nature, character, possession, as well as transfer and/or alienation and/or creation of third-party interest in respect of the subject property till disposal of the application.*

*The appellant shall serve copies of the Memorandum of Appeal as well as the application on the respondents, indicating that the matter shall be listed before the appropriate Bench in the next Circuit, when an affidavit-of-service to that effect shall be filed by the appellant.”*

10. The learned Advocate for the respondents has submitted that they shall enter appearance in the proceedings pending before the learned Trial Court and requested an opportunity to file a written objection to the petition filed by the appellant seeking ad-interim injunction, and to contest the same before the Trial Court.
11. The learned Advocate for the appellant submits that the order of status quo contained under the order dated 01.08.2025 in the present proceeding be continued till disposal of the application for injunction before the Trial Court.
12. This Court therefore, directs that the parties shall continue to maintain status quo with respect to the nature, character, possession, as well as transfer and/or creation of any third-party interest in the subject property until the disposal of the application for injunction by the learned Trial Court.

13. The learned Trial Court is accordingly directed to decide the petition filed by the appellant for ad-interim injunction on its merits.
14. Liberty is granted to the respondents to file their written objections against the said petition within one week from the date of this order.
15. The order of status quo granted by this Court shall continue until the Trial Court disposes of the application.
16. It is expected that the parties will cooperate for the expeditious disposal of the application.
17. It is clarified that this Court has not expressed any opinion on the merits of the dispute, which shall be considered solely by the learned Trial Court.
18. In view of the present order continuing the earlier order of status quo dated 01.08.2025 passed by this court till disposal of the suit, nothing survives in the present appeal which is directed against the order of the Trial Court dated 15.07.2025 refusing a grant of an interim injunction. The appeal, therefore, is also disposed of in the same terms.

19. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all formalities.

**(Madhuresh Prasad, J.)**

**(Prasenjit Biswas, J.)**