

IN THE HIGH COURT AT CALCUTTA
[CIRCUIT BENCH AT PORT BLAIR]

FAT/2/2025
IA No.CAN/1/2025

Shri S. Palaniappan

Vs.

Shri Vellaswamy

Mr. Arul Prasanth ... for the appellant

March 24, 2025
[SR]
Item No.2

1. Leave is granted to file supplementary affidavit disclosing one exhibit inadvertently left out in the petition.
2. We have heard learned counsel appearing for the appellant. It has been fairly submitted that although the appeal is otherwise required to be filed before the learned District Judge but in view of the decision of the Coordinate Bench in Robin Bagchi vs. Dr. M Joy and others in FAT/3/2022 dated 19th October, 2023, this appeal is filed before this Division Bench.
3. We have been informed that the Special Leave Petition is pending in which the said decision passed in Robin Bagchi vs. Dr. M Joy and others is under consideration.
4. Keeping in mind the aforesaid fact, we are inclined to admit this appeal subject to the result of the Special Leave Petition.
5. The appeal is thus admitted.

Re:CAN/1/2025 (Stay)

6. The plaintiff/opposite party filed a suit for cancellation of a deed of sale executed by and between the parties. The plaintiff alleged that the plaintiff has not voluntarily executed the sale deed. The registered sale deed being exhibit-4 is required to be declared as *void abinito* as it was executed under mis-

representation and duress. The plaintiff has to prove the signature on the sale deed on the blank stamp paper.

7. However, it is not in dispute that the plaintiff has received a sum of Rs.21.00 lakhs and the said amount has not been returned as a consequence of the said deed being declared null and void.

8. Under such circumstances, the direction upon the Sub-Registrar, South Andaman for appropriate noting be made and effected in the relevant register as regard cancellation of the sale deed dated 10.10.2013 shall be remain stayed for a period of four weeks from date or until further order whichever is earlier.

9. The stay petition along with the memorandum of appeal, supplementary affidavit and a copy of this order shall be served upon the sole respondent by speed post with acknowledgement due within a week from date with an intimation that this matter shall be listed before the next available Circuit Bench, subject to the convenience of the Bench.

10. The affidavit of service shall be filed on the adjourned date.

(Soumen Sen, J.)

(Raja Basu Chowdhury, J.)