

Form No. J(2)

In the High Court at Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present: The Hon'ble Justice Sabyasachi Bhattacharyya
And
The Hon'ble Justice Supratim Bhattacharya

FA 433 of 2025
IA No: CAN 1 of 2025
CAN 4 of 2026

Sri Arindam Chowdhury
Vs.
Sushil Kumar Saha and others

For the appellant : Mr. Haradhan Banerjee, Snr. Adv.,
Mr. Partha Pratim Mukhopadhyay

For the respondent no.5 : Mr. Debanik Banerjee,
Ms. Kaushiki Roy,
Mr. Shubham Patider

Heard on : 03.08.2026

Judgment on : 03.08.2026

Sabyasachi Bhattacharyya, J.:-

1. CAN 1 of 2025 is an application for production of additional evidence by way of deeds which are alleged to be title deeds by the appellant.
2. The appeal arises out of the dismissal of a partition suit filed by the plaintiff/appellant on the sole ground that the plaintiff/appellant failed to establish his title by producing appropriate title deeds and other documents.

3. In view of such documents being sought to be produced before this Court and since the learned Trial Judge apparently did not give any further opportunity to the appellant to produce such documents, CAN 1 of 2025 is allowed, thereby granting opportunity to the appellant to furnish the originals of the documents annexed to the said application as evidence in the trial court.
4. There will be no order as to costs.
5. Learned counsel for the respondents, on instruction and in his usual fairness, submits that his clients have no objection to such documents being furnished, subject to those being appropriately tendered and proved in evidence and opportunity being given to the respondents to take appropriate objection in the trial court.
6. Insofar as CAN 4 of 2026 is concerned, the appellant has alleged therein that in violation of the orders of injunction dated January 05, 2026 and February 04, 2026 passed by this Court, the respondent nos. 1 and 5 have raised construction as well as dispossessed the appellant from the suit property.
7. In view of the intention of the Court to dispose of the appeal itself, no useful purpose would be sub-served in keeping the interlocutory application pending.
8. The ends of justice would, however, be sub-served if the appellant is granted liberty to file a similar application with the self-same relief for mandatory injunction in the trial court.
9. Accordingly, FA 433 of 2025 is allowed on contest, thereby setting aside the impugned judgment and decree dated July 07, 2025 passed

by the learned Civil Judge (Senior Division) at Islampur, District: Uttar Dinajpur in Partition Suit No. 61 of 2014 and remanding the suit to the trial court for a fresh adjudication on merits, upon giving opportunity to the appellant to produce the documents of title of the appellant, copies of which have been annexed to CAN 1 of 2025 filed before us, in evidence.

10. It is made clear that this Court has not entered into the merits of the respective contentions of the parties and it will be open to the learned Trial Judge to decide the suit independently, in accordance with law and on its own merits.
11. If the documents-in-question are tendered by the appellant as evidence, needless to say, appropriate opportunity shall be given to the defendants/respondents to take relevant objections and to adduce their independent evidence as well.
12. Insofar as CAN 4 2026 is concerned, the same is disposed of with liberty to the appellant to file a similar application in the Trial Court with the self-same relief of mandatory injunction on the allegation of violation of the injunction order passed by this Court. If such an application is filed, the learned Trial Judge shall decide the same on its own merits in accordance with law, upon giving adequate opportunity to the respondents to controvert the same and upon hearing the parties.
13. The trial court records be sent down immediately by special messenger at the cost of the appellant, to be deposited within a fortnight from date.

14. There will be no order as to costs.
15. Urgent photostat certified copies of this judgment and order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)

I agree.

(Supratim Bhattacharya, J.)