
(2026) 08 CAL CK 3003
In the Calcutta High Court
Case No : FMAT 245 of 2026 with CAN 1 of 2026

Sunil Anchalia

APPELLANT

Vs

Sundari Devi Anchalia & Ors.

RESPONDENT

Date of Decision : 03-08-2026

Acts Referred:

Citation : (2026) 08 CAL CK 3003

Hon'ble Judges : Sabyasachi Bhattacharyya, J; Supratim Bhattacharya, J

Bench : Division Bench

Advocate : Mr. Kausik Chatterjee, Mr. Sarban Bhattacharya, Mr. Ratul Das, Mr. Partha Pratim Roy, Mr. Tanmay Mukherjee, Mr. Mrinal Kanti Ghosh, Mr. Arindam Chandra, Mr. Atish Ghosh, Ms. Antara Dey, Ms. Neha Gupta, Mr. Noorul Islam, Ms. Nima Sharma, Mr. Arif Ali

Final Decision : Disposed Of

Judgement

Sabyasachi Bhattacharyya, J.:

1. The present challenge has been preferred against the deemed refusal of an ad interim prayer of injunction prayed for in a suit for partition filed by the appellant.
2. Learned counsel appearing for the appellant contends that the learned Trial Judge, while passing the impugned order, did not advert to the averments made in the injunction application and/or the materials in support thereof and merely adjourned the matter to a different date.
3. On merits, learned counsel argues that in the suit for partition, it has been claimed that the defendant/respondent nos. 3 to 6 have around 20% share in the total property. The plaintiff/appellant alleges that in connection with a money decree which the defendant nos. 3 to 6 suffered, they gave out that 34 decimals out of the total 54 decimals joint property, which is the subject matter of the partition suit, belonged exclusively to the same. The said 34 decimals of land as accordingly sold out to a third party in a court sale in execution of the said money decree, behind the back of the plaintiff and the other defendants/

respondents, who were also co-sharers therein.

4. In view of such conduct of the respondent nos. 3 to 6, it is argued that when the same respondents i.e. the respondent nos. 3 to 6, now claim exclusive right to the compensation amount awarded for the acquisition of the balance 20 decimals of the suit property, there is strong apprehension that the said respondents might usurp the entire money by defeating the shares of the plaintiff/appellant and the other defendants/respondents therein.

5. It is pointed out that in a parallel proceeding for apportionment of the compensation amount, where the appellant is also a party, orders were passed which ultimately went up to the Hon'ble Supreme Court. The Hon'ble Supreme Court, in connection with an application in respect of the said matter, categorically observed that 25% of the amount deposited with the reference court out of the said compensation amount would be released in favour of the respondent nos. 3 to 6 within one week, which would be subject to Narendra Kumar Anchalia, one of the said respondents (no.3), furnishing an undertaking on affidavit that after the adjudication of the apportionment/title suit, the excess amount, if any, shall be refunded along with interest, as may be determined by the court. Such undertaking was to be furnished before the reference court.

6. Learned counsel for the appellant submits, by placing reliance on the materials on record, that the antecedents of the respondent nos. 3 to 6 shows that there is every possibility that they might misappropriate the entire 25%, which is beyond their share in the suit property in the partition suit, leaving no remedy for the appellant and the other defendants/respondents to ultimately realize the said amount even if the partition suit is decreed in their favour.

7. As such, it is argued that the paradigm of the apportionment proceeding being different from that of the partition suit, sufficient security ought to be furnished by the respondent nos. 3 to 6 in respect of the said amount of 25% of the compensation which has been released in their favour, as all the co-sharers have equal rights thereto.

8. Learned counsel further argues that the claim of the appellant and the defendants other than defendants/respondent nos. 3 to 6 cannot be restricted only to the compensation amount for the 20 decimals land, since it also has to be taken into account that 34 decimals of land, belonging to all the co-sharers, was exclusively utilized by the said respondents for meeting their decretal dues. Thus, it is argued that the claim of the co-sharers other than the respondent no. 6 would be much more than mere 25% of the compensation amount. As such, it is argued that the amount ought to have been secured or directed to have been deposited in an account which would be frozen for the moment, at least insofar as the respondent nos. 3 to 6 are concerned.

9. In view of such arguable questions having been raised, we admit the appeal, to be heard on the above questions and the other grounds taken in the memorandum of appeal, and take up the same for final hearing in view of the

issues involved in the appeal and the stay application being identical.

10. Learned counsel appearing for the respondent nos. 3 to 5 controverts the allegations of the appellant and submits that as per the said respondents, they, along with respondent no. 6, are exclusively entitled to the compensation amount released in respect of the 20 decimals of land-in-question. Moreover, it is the said respondents who took the entire initiative for obtaining the compensation in the first place.

11. That apart, in the event the prayer as sought by the appellant is granted, the Court taking up the partition suit and/or this Court would be tinkering with the order of the Hon'ble Supreme Court, where all the parties, including the appellant, were impleaded.

12. Apart from the appellant and the other respondents being bound by the said order of the Hon'ble Supreme Court, which has sufficiently taken care of the security in respect of the 25% compensation amount disbursed in favour of the respondent nos. 3 to 6, the parties are also bound by the said order and cannot go beyond the same under the pretext of obtaining an order in the partition suit.

13. After a careful consideration of the arguments of the parties and a perusal of the materials on record, we find that we cannot overlook certain cardinal aspects of the *lis*.

14. First, although the appellant and the other respondents than respondent nos. 3 to 6, who substantially support the appellant's contentions, claim that their entitlement to the property which is the subject-matter of the partition suit is much more than the compensation amount received in respect of 20 decimals land, in view of the respondent nos. 3 to 6 having alienated 34 decimals out of the joint corpus of the family property, we do not find any such prayer within the four corners of the plaint. The reliefs sought in the suit are with regard to the partition of the properties simpliciter.

15. Thus, although a partition decree implicitly includes declaration of the shares of the parties in the subject property, in the absence of any adjustment being specifically sought or any claim of monetary amount by way of damages/compensation being made with regard to the 34 decimals of property which has already been allegedly sold by the respondent nos. 3 to 6 unlawfully, there is no scope of mixing up the plaintiff/appellant's claim of share in the said 34 decimals of land, which does not translate into a monetary claim as per the plaint, with the money received by way of compensation for the balance 20 decimals of suit property.

16. Thus, the paradigm of the claim of apportionment of the acquisition compensation is entirely different from that of the partition suit between the parties. Thus, the entitlement, if any, of the plaintiff and the other defendants in the 34 decimals sold out under the impression that the same exclusively belonged to the respondent nos. 3 to 6, cannot have any bearing on, or be

'adjusted with' their claim on the compensation amount receivable for acquisition of the balance 20 decimals of suit property.

17. Secondly, we find from the order of the Hon'ble Supreme Court that all parties to the present partition suit were substantially represented therein. The matter went up to the Apex Court from claims of apportionment made by the plaintiff/appellant and the other co-sharers themselves. Apportionment in respect of a monetary sum is equivalent to declaration of the shares of the applicants in the said sum. No distinction can be drawn between a partition suit seeking declaration of shares in a monetary corpus and a compensation apportionment proceeding in respect of such monetary amount, inasmuch as both the proceedings ultimately being for adjudication of the shares of the parties to such monetary amount.

18. Thus, the scope of operation of the order passed by the Hon'ble Supreme Court in connection with the apportionment proceeding cannot be qualitatively distinguished from the claim with regard to the corpus of such money in the partition suit.

19. Thus, the parties are squarely bound by the order of the Hon'ble Supreme Court and the arrangements made therein in respect of the compensation amount, 25% out of which has been released in favour of the respondent nos. 3 to 6 subject to an undertaking being furnished by one of them in terms of the order of the Hon'ble Supreme Court.

20. Since the said order has attained finality, it binds all parties, including the appellant and the other respondents than the respondent nos. 3 to 6, and it would evidently tantamount to modifying the said order of the Hon'ble Supreme Court if any further rider or condition is added to the same, either by the trial court taking up the partition suit or this court, sitting in appeal over an order passed therein.

21. While observing so, we also take note of the fact that in Clause (i) of paragraph 7 of the said order, the Hon'ble Supreme Court consciously observed that the release shall be subject to Narendra Kumar Anchalia (respondent no. 3 herein) furnishing an undertaking on affidavit that *after the adjudication of the apportionment/Title Suit*, the excess amount, if any, shall be refunded along with interest as may be determined by the Court.

22. Although such undertaking was directed to be furnished before the reference Court while so observing, the Hon'ble Supreme Court took into account both the adjudications pending in the apportionment proceeding and Title Suit (partition suit) between the parties. Thus, such order operates in respect of not only the apportionment proceeding but also the partition suit between the parties. As such, the self-same chapter cannot be reopened afresh in an interlocutory application filed in the partition suit.

23. Hence, we are of the *prima facie* opinion that the plaintiff/appellant was not

entitled to any further protection than granted by the Hon'ble Supreme Court, as discussed above, vis-à-vis the respondent nos. 3 to 6.

24. Hence, no interference with the impugned order is called for.

25. Accordingly, FMAT 245 of 2026 is dismissed on contest, thereby affirming the impugned order, bearing Order no. 46 dated July 4, 2026 passed by the learned Civil Judge (Senior Division) at Suri, District: Birbhum in Title Suit no. 128 of 2022, insofar as the deemed refusal of the ad interim prayer for injunction of the plaintiff/appellant is concerned.

26. It is hereby clarified that this court has not entered into the merits of the matter insofar as the final hearing of the injunction application is concerned and/or any further stage of the suit is concerned and the above observations are only tentative in nature, confined to the ad interim stage of the injunction application.

27. It will be open to the learned Trial Judge to decide the injunction application and the suit on their own merits and in accordance with law, without being unnecessarily influenced by any of the observations made above.

28. Consequentially, CAN 1 of 2026 stands disposed of as well.

29. No order as to costs.

30. Urgent certified copies of this judgment, if applied for, be supplied to the parties upon compliance of requisite formalities.