



2026:CHC-AS:96-DB

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

Case No.

FMAT18 of 2026

with

CAN 1 of 2026

In the matter of :

DEV SAHITYA KUTIR PVT LTD

.... Appellant

VS.

SMT. ARCHANA DEBNATH& ANR.

....Respondents

For the Appellant

**: Mr. SaptansuBasu, Sr. Advocate
Mr. Ayan Banerjee
Mr. Tanmoy Mukherjee
Mr. ParthaPratim De
Mr. PinakiBrata Ghosh
Mr. Abhinaba Roy**

....Advocates

For the Respondents

**: Mr. SardarAmjad Ali, Sr. Advocate
Mr. Susandip Pathak
Ms. Sucharita Ray
Mr. Abdul Wajid**

....Advocates

Heard on

: 21.01.2026

Judgment on

: January 21, 2026.

Sabyasachi Bhattacharyya, J. :-

1. Affidavit of service filed today be taken on record.



2. In view of the extreme urgency involved, and since the issues involved in the interim application and the appeal are identical, we admit the appeal and take up the same for hearing along with the application.
3. The plaintiffs / respondents have filed Title Suit no.01 of 2026 before the learned District Judge at Alipore, South 24 Parganas, alleging infringement of the copyright of the appellants by the defendants / present appellant, which is a publishing house of some renown, in respect of literary and artistic works of their predecessor-in-interest who has allegedly left a Will bequeathing the property to the plaintiff/respondent no. 2, in which the plaintiff/respondent no. 1 is the Executrix.
4. In the plaint, it has been *inter alia* alleged that the literary and artistic work of late Narayan Debnath, an author of considerable fame, is being infringed by the defendant / appellant. It is submitted that although an agreement was entered into in the year 2012 between the said late Narayan Debnath and the defendant / appellant, the same was only for two years and thereafter, without paying adequate royalty, the defendant / appellant has been infringing such copyright.
5. The plaintiff no. 1 is the widow of the said deceased author and the plaintiff no. 2 is one of his sons. The plaintiffs allege that



their said predecessor executed a last Will and Testament, bequeathing the copyright of his work to plaintiff no. 2, appointing plaintiff no. 1 as the Executrix.

6. On such premise, by the impugned order, the learned District Judge at Alipore granted an ad interim order of injunction restraining the defendant / appellant and / or its men and agents from publishing or in any manner in any other manner printing, selling or offering to sell or distributing, retailing or circulating the artistic and literary work of late Narayan Debnath in the form of books or through online portal, e-commerce, in whatever mode, till February 9, 2026.
7. Learned Senior Counsel appearing for the defendant/appellant argues that the impugned order is erroneous in law and in fact on several counts.
8. It is submitted that the appellant has been publishing the works in question for a considerable period and at the eleventh hour, when a book fair is about to commence tomorrow, i.e., from January 22, 2026, the suit was filed and the ad interim injunction was obtained, thereby adversely affecting the prospective revenue to generated by sale of the said works in the book fair and even otherwise.



9. It is submitted that the balance of convenience and inconvenience lies against grant of injunction in view of the huge losses which would be suffered by the defendant / appellant in the event such injunction is permitted to continue.
10. Secondly, learned Senior Counsel submits that there was gross suppression of material facts in the plaint and the injunction application by the plaintiffs / respondents in the Trial Court. in paragraph no.14 of the plaint, it has been stated that late Narayan Debnath, under erroneous legal advice, filed a suit for declaration and injunction before the learned Civil Judge (Junior Division), Second Court, Howrah being Title Suit no.1559 of 2019 and soon thereafter he learned that the learned Court lacks subject jurisdiction and upon being applied for, the suit was “withdrawn on that ground only”.
11. However, by relying on the relevant order, learned Senior Counsel submits that the earlier suit was dismissed for default without any order as to costs vide order no.15 dated March 8, 2022 passed in Title Suit no.1559 of 2019 and not withdrawn, either on the ground of lack of jurisdiction or otherwise. Thus, it is contended that there was deliberate suppression of such germane fact by the plaintiffs/respondents, which is germane since, if disclosed, it would come to the notice of the Court that



the present suit is barred under Order IX Rule 9 of the Code of Civil Procedure.

12. It is contended that one must come with clean hands to be entitled to injunction. On such ground alone, it is argued, the impugned ad interim order of injunction ought to be set aside.
13. That apart, in the suit itself, to be precise, in paragraph no.23 of the plaint, it has also been admitted that one Shri Sankar Mondal (the proprietor of another publishing house) filed a suit before the Commercial Court at Alipore, registered as Title Suit no.14 of 2021, against the present parties, alleging similar infringement of copyright of the works of late Narayan Debnath, on the strength of alleged license of such copyright in favour of the plaintiff therein. In the said suit, the Commercial Court was pleased to pass an order of ad interim injunction on July 14, 2021. However, it has been stated in paragraph no.23 of the present plaint that the prayer in the injunction application was improper according to the plaintiff of the said suit, for which the injunction application was not pressed and the ad interim order passed therein got vacated in April, 2024.
14. Upon death of late Narayan Debnath, his legal heirs, including the plaintiff no.2 in the present suit, were added as parties to the said suit, although the plaintiff no.1 was not a party.



15. It is pointed out that the present plaintiffs / respondents further admitted that being defendant in the said suit, they could not file any counter-claim against a co-defendant (that is, the present defendant/appellant), for which the relief sought at present could not be asked for in the said suit. By virtue of such admission, it is argued, the plaintiffs admit knowledge of the previous suit and the alleged infringement by the present defendant / appellant at least in the year 2021.
16. Even taking the worst case against the appellant, learned Senior Counsel submits, it was recorded in an order dated April 24, 2024 passed in connection with the commercial suit that one of the plaintiffs appeared in the said suit and the other did not, despite notice.
17. Thus, the present plaintiffs / respondents waited for almost two years till just before the commencement of the upcoming book fair to file the suit and obtain the impugned ex parte order of ad interim injunction. It is contended that delay defeats equity and in view of the long delay in filing the present suit and seeking injunction, the ad interim prayer of injunction ought to have been dismissed. It is also indicated that the present suit is barred by limitation as well as by operation of Order IX Rule 9 of Code of Civil Procedure, in view of earlier suit of Narayan



Debnath (since deceased), the predecessor in interest of the present plaintiffs, having been dismissed for default long back.

18. Learned Senior Counsel next argues that neither of the plaintiffs has *locus standi* to prefer the instant suit, from which the present appeal arises.
19. Insofar as plaintiff / respondent no.2 is concerned, being a legatee, no right is conferred on the said plaintiff / respondent before probate is granted in the suit, in any event.
20. Even the plaintiff / respondent no.1, the alleged Executrix of the last Will and testament dated August 13, 2020 executed by late Narayan Debnath, does not have the *locus standi* to maintain the suit before probate is granted in respect of such Will. learned Senior Counsel places reliance on the provisions of Section 213 of the Indian Succession Act, 1925 (hereinafter referred to as the "1925 Act") in support of his submission.
21. It is contended that the said provision, read in conjunction with Section 57 of the 1925 Act, makes it abundantly clear that probate has to be taken in respect of Wills executed by a Hindu within the territories as specified therein, including the State of West Bengal in the present day. By operation of sub-Section (1) of Section 213, it is argued, no right, either as executor or legatee, can be established in any Court of Justice, unless a



Court of competent jurisdiction in India has granted probate of the Will under which the right is claimed, or has granted letters of administration with the Will or with a copy of an authenticated copy of the Will annexed.

22. Upon being confronted with a question from the Court as to the interplay between Sections 213 and 211 of the 1925 Act, learned Senior Counsel argues that Section 211 is the general provision applicable throughout India, to the effect that the executor or administrator of a deceased person, as the case may be, is his legal representative for all purposes and all property of the deceased person vests in him as such.
23. However, it is submitted that so far as the territories to which Section 57 of the 1925 Act is applicable, by operation of Section 213, an exception has been carved out to the scope of Section 211 of the said Act. In respect of those territories, including the State of West Bengal, it is submitted that unless probate is granted, no right can be asserted on the basis of the Will. Hence, the suit is not maintainable at all at the behest of the plaintiffs, who claim respectively to be the executor and legatee of the deceased testator.
24. Learned Senior Counsel appearing for the appellant cites, in support of his contentions, the judgment of **Kanta Yadav vs.**



Om Prakash Yadav &Ors.reported at (2020) 14 SCC 102, and**RavinderNath Agarwal vs. YogenderNath Agarwal &Ors.** reported at (2021) 15 SCC 282, both judgments of the Hon'ble Supreme Court, as well as a Full Bench decision of the Madras High Court in the matter of **GanshamdossNarayandoss vs. Gulab Bi Bai** reported at **The Law Weekly, 1927 (Vol. XXVI) 697.**

25. Learned Senior Counsel next argues that the learned Trial Judge did not adhere to the proposition as laid down in the proviso to Rule 3 of Order XXXIX of the Code of Civil Procedure, as reiterated in **Shiv Kumar Chadha vs. Municipal Corporation of Delhi** reported at (1993) 3 SCC 161 as well as in **Morgan Stanley Mutual Fund vs. Kartick Das** reported at (1994) 4 SCC 225.
26. In reply, learned counsel appearing for the plaintiffs / respondents submits that the plaintiffs were not guilty of any suppression, since a copy of the order, whereby the earlier suit of late Narayan Debnath was dismissed for default, was annexed to the plaint of the present suit, and as such, was before the Trial Court. Learned counsel candidly submits that although there was error in mentioning in the plaint that the said suit had been withdrawn, fact remains that the backdrop of the dismissal of the suit for default was that the plaintiffs did not proceed



with the same on the ground that the Court concerned did not have jurisdiction.

27. It is next submitted that the defendant / appellant itself, in its counterclaim filed in the commercial suit filed by the third party, has admitted the existence of the 2012 agreement where it has been admitted that late Narayan Debnath was the author of the infringed literary and artistic works and licence to publish was given only for a two-year period to the appellant in respect of such publications. However, a contradictory stand has been sought to be taken by the defendant / appellant in the said counter-claim by claiming ownership rights in the infringed material.
28. Learned counsel then argues that delay cannot be a bar in granting injunction in copyright infringement cases, since the cause of action of such a suit arises day-to-day.
29. In support of such submission, learned counsel cites the judgment of **Midas Hygiene Industries (P) Ltd. &Anr. vs. Sudhir Bhatia &Ors.** reported at (2004) 3 SCC 90 as well as **Renaissance Hotel Holdings Inc. vs. B. Vijaya Sai &Ors.** reported at (2022) 5 SCC 1. The Hon'ble Supreme Court reiterated in the said cases that where there is an infringement of trademark or copyright, an injunction normally must follow.



Although it was held that injunction must necessarily be granted if the adoption of the mark was itself dishonest, it was clarified that even if no dishonest intention is proved, injunction should all the same be granted, since in case of infringement of a copyright, the cause of action arises day to day and as such, there cannot be any time-bar or concept of delay imported into such grant.

30. Upon hearing learned counsels for the parties, we find that the appellant's argument regarding the lack of *locus standi* of the plaintiffs cannot be accepted for the following reasons :
31. In **Kanta Yadav (supra)**, the question which fell for consideration before the Hon'ble Supreme Court was whether it was necessary to seek probate or letters of administration in respect of a Will in terms of Section 213 of the 1925 Act in the National Capital Region of Delhi, as specified in paragraph no.4 of the said judgment. In such context, the Hon'ble Supreme Court considered the applicability of Section 213, read with Section 57, of the said Act and arrived at the conclusion that in territories which are not specifically mentioned in Section 57, read with Section 213, of the 1925 Act, no probate is required to be obtained by a Hindu in respect of a Will.



32. However, the interplay between Sections 213 and 211 and the question, as to whether an executor or a legatee is entitled to maintain a suit for defending the subject property covered by a Will before grant of probate, was never argued, nor considered, nor decided by the Hon'ble Supreme Court in the said judgment.
33. In **RavinderNath Agarwal (supra)**, the Hon'ble Supreme Court was considering a Will executed by a person who was ordinarily a resident of district Nainital in the State of Uttarakhand.
34. The case before the Supreme Court arose out of two transfer petitions in respect of a suit for partition pending before the learned Additional District Judge, Saket Court, New Delhi to a court of competent jurisdiction in the district of Nainital, Uttarakhand and for transfer of a testamentary case pending before the High Court of Uttarakhand, Nainital to the District Court of Saket, New Delhi.
35. Thus, it is evident that the Will in question was not covered either by Section 213 or Section 57 *ex facie*, since the *lis* pertained to territories not coming within the ambit of the said Sections.
36. In the above context, the Hon'ble Supreme Court took into consideration the different facets of Sections 57 and 213 and came to the conclusion, *inter alia*, that without first obtaining



letters of administration from a Court of competent jurisdiction, no right to any property of a person other than a Hindu, etc. can be established in any Court of Justice in terms of Section 213. However, the second rule was that no right as executor or legatee under a Will can be established in any Court of Justice unless probate of the Will had been granted by a Court of competent jurisdiction, *which was applicable to the local limits of the areas as specified in Section 57 of the 1925 Act* (emphasis supplied). In paragraph 36 of the judgment, the Hon'ble Supreme Court observed that a cumulative reading of Sections 57, 213 and 264 would show that a person claiming to be an executor or legatee under a Will cannot rely upon the Will in any proceeding before a Court of Justice, unless he has obtained probate (if an executor has been appointed) or letters of administration if such a Will has been executed by certain classes of persons and that the jurisdiction to grant probate or letters of administration vests only in Courts located within the towns of Calcutta, Madras or Bombay and the Courts in any local area notified by the State Government in the Official Gazette. Therefore, it was held, unless the testator belongs to any of the said classes and unless the Will is made or some of the properties covered by the Will are located within the local limits



of a notified area, there is no necessity for an executor or a legatee under a Will to seek probate or letters of administration.

37. Hence, in the said judgment as well, the issues which have fallen before us for consideration, being the interplay between Sections 211 and 213 of the 1925 Act, was not decided.
38. Thus, the said judgments cannot be said to be precedents for the present purpose.
39. The learned Senior Advocate appearing for the appellant has also relied on a Full Bench decision of the Madras High Court in **Gulab Bi Bai (supra)** case.
40. In the said case, a question fell for consideration as to whether a defendant resisting a claim made by the plaintiff as heir-at-law can rely in defence on a Will executed in his favour at Madras in respect of properties situated in Madras when the Will was not probated and no letters of administration with the Will annexed had been granted.
41. The Full Bench of the Madras High Court proceeded to decide, *inter alia*, that a defendant can rely on an unprobated Will provided that he does not do so in order to establish a right under the Will.
42. It was further observed that the plaintiff was suing as heir-at-law but he was resisted by the defendant who claims under a Will of



which no probate had been taken. As such, the plaintiff being the heir under intestacy, which must be presumed until a Will is proved, was not entitled to succeed to the property unless it can be shown that his title has been displaced.

43. It was further observed that the mere existence, therefore, of a Will does not necessarily displace the plaintiff's title.
44. With utmost respect to the erudition of the Full Bench of the Madras High Court, even in the said case, the overlapping scopes of operation of Sections 211 and 213, read with Section 227, of the 1925 Act was not considered.
45. Let us now independently proceed to examine the effect of the overlapping scopes of operation of the relevant provisions of law in the present context.
46. From Section 213(1) of the 1925 Act, it is evident that no right as executor or legatee can be established in any Court of Justice unless a Court of competent jurisdiction in India has granted probate of the Will under which the right is claimed.
47. Sub-Section (2) of Section 213 carves out an exception to the extent that the Section shall not apply in the case of Wills made by Mohammedan or Indian Christians and shall only apply, *inter alia*, in case of Wills made by any Hindu, etc. where such Wills are of the classes specified in clauses (a) and (b) of Section 57.



48. Referring back to Section 57, the said Section provides that the provisions of “this Part” (Part VI of the 1925 Act) which are set out in Schedule III shall, subject to the restrictions and modifications specified therein, apply to all Wills and codicils made by any Hindu, etc. on or after the first day of September of 1870 within the territories as specified therein, which includes the modern-day State of West Bengal as well.
49. An apparent conflict arises between Sections 211 and 213 inasmuch as by virtue of Section 213, even an executor or legatee cannot establish a right on the strength of a Will, unless probate is granted, whereas sub-section (1) of Section 211 provides that the executor or administrator, as the case may be, of a deceased person is his legal representative for all purposes and all the property of the deceased person vests in him as such.
50. The appellant herein has sought to impress upon this Court that Section 213 is a niche provision, carving out an exception within the broader spectrum of Section 211, the latter applying to all over India except the jurisdictions stipulated in Section 57, read in conjunction with Section 213.
51. However, a composite reading of the said sections along with Section 227 of the 1925 Act defies such logic. Section 227



carries the caption “Effect of probate”, thereby clearly indicating the legislative intent to apply such section only to provinces and areas where a probate is required to be taken.

52. Even as per the judgments cited by the appellant, probate is not required to be taken in the areas which are not notified or come within the purview of Section 57 of the 1957 Act. Thus, by necessary implication, the operation of Section 227 is specifically in respect of places where probate is required to be taken, since the Section deals specifically with the effect of probates.
53. Hence, Section 227 has to be read in conjunction with the residuary scope of Section 211 as well as the provinces where Section 213 apply.
54. As per Section 227, probate of a Will, when granted, establishes the Will from the death of the testator and renders valid all intermediate acts of the executor as such.
55. An absurd conundrum would result if we interpret Section 211, in conjunction with Section 213, as sought to be impressed by the appellant.
56. In such a scenario, a situation might arise where immediately upon the death of the testator, the property vests in the



executor or administrator in terms of Section 211 of the 1925 Act.

57. On the other hand, in a similar situation, it may very well be that in locations where Section 57 is applicable, no such right can be established in a Court of law by the executor or legatee before the probate is finally granted by operation of Section 213, thereby implying that there will be a vacuum insofar as the subject property of the Will is concerned, between the period from the demise of the testator and the date of grant of the probate, which cannot be the contemplation of law.
58. Again, by virtue of Section 227, immediately upon the grant of probate, the right of the executor and all intermediate acts of the executor from the date of the death of the testator till the grant of probate are validated.
59. Such retrospective effect of Section 227 then, if construed in the light of the appellant's submission, would mean that during the self-same period, that is, the interregnum between the death of the testator and the grant of the probate, the property, on the grant of probate, would be under the ownership and tutelage of both the successors of the deceased person as well as the executor simultaneously. It is to be noted that in terms of Section 227, the investiture of title and right in the property



concerned is retrospective, being validated from the date of death of the testator. The expression “all intermediate acts of the executor as such” clearly refers to the intermediate acts of the executor as an executor before grant of probate.

60. Hence, on a harmonious reading of Sections 211 and 227, there cannot be any other mode of interpretation but that even in areas where Section 213 operates, the executor, for the limited purpose of protecting the property, is fully entitled to maintain suits and/or defend litigations and/or take other action for the said purpose, which would then be construed to be an “intermediate act” within the contemplation of Section 227 and be regularized/validated upon the grant of probate.
61. Although the executor or legatee cannot otherwise assert rights before the grant of probate, for the limited purpose of defending the estate of the deceased testator, by the composite effect of Sections 211 and 227, the executor or the legatee can defend or protect the subject property and take all steps in that regard immediately after the death of the testator till the grant of probate.
62. Seen in such perspective, the plaintiff no. 1, in the capacity of executor and the plaintiff no. 2, as legatee of the will of Late



Narayan Debnath, are fully entitled to maintain the suit even before the probate is granted.

63. Even otherwise, the plaintiff no. 1 and the plaintiff no. 2 are two of the heirs of Late Narayan Debnath.
64. Hence, although they do not represent the entire body of heirs of the deceased testator, there being at least one other sibling of the plaintiff no. 2, fact remains that the capacity of the plaintiffs remains as an heir of the deceased testator as well.
65. Thus, the suit is maintainable in both the avatars of the plaintiffs - as executor/legatee and as heirs of the deceased testator. Thus, the objection as to maintainability of the suit, advanced by the appellant, cannot be entertained in any manner whatsoever.
66. Coming to the next question as to whether the present suit is barred by Order IX Rule 9 of the Code of Civil Procedure, it is to be noted that the said provision debars a suit "on the self-same cause of action if a prior suit is dismissed for default and no restoration of the same is obtained."
67. In case of infringement of a copyright, the cause of action is continuing in nature and arises *de die in diem* and as such, limitation arises day to day, since the cause of action is a fresh cause of action each succeeding day/moment.



68. Hence, the bar under Order IX Rule 9 is not applicable to the present case as well, as the subsequent suit is on a fresh and subsequent cause of action and not the “self-same” cause of action as the previous suit, which was dismissed for default.
69. On the question of delay, following the principle laid down in **Midas Hygiene Industries (P) Ltd. (supra)** and **Renaissance Hotel Holdings Inc. (supra)**, it is a settled proposition of law that in cases of infringement of copyright, injunction is granted almost as a matter of course, unless some fact hitting at the root of the jurisdiction of the Courts and/or the maintainability of the suit comes up.
70. At the ex parte ad interim stage, the learned Trial Judge was to proceed on the premise that the averments made in the plaint and the injunction application are sacrosanct, since no rebuttal has yet come on record, the matter being still at the adinterim stage. The Court had to look into whether injunction could be granted on the basis of the averments made in the plaint and injunction application alone, and could not have looked elsewhere.
71. On the question of suppression of material fact, since the appearance of the present plaintiffs in the Commercial Suit and the knowledge of infringement derived therefrom does not in



any manner create any bar to the present suit, as there is no limitation due to the cause of action of copyright infringement arising day to day, such fact was not germane for the purpose of the present suit.

72. In any event, a copy of the order of dismissal of the earlier suit filed by Narayan Debnath(since deceased) for default was annexed to the injunction application in the trial Court.
73. Thus, it cannot be said that there was material suppression on the part of the plaintiffs before the trial Court.
74. The arguments of the appellant as to non-adherence to the principles laid down in **Shiv Kumar Chadha's** case as well as **Morgan Stanley (supra)** cannot also be taken as a violation of a basic tenet set in stone.
75. The directions given in **Shiv Kumar Chadha's** case and reiterated in **Morgan Stanley (supra)** are merely by way of guidelines, putting the court to notice that where an injunction is granted at the ad interim stage, the court has to grant reasons and also to take note of the relevant factors which are to be considered.
76. It is needless for the trial courts to repeat and copy-paste each of the directions given by the Supreme Court in the said judgments in each case of grant of ex parte ad interim



injunction, which would be a meaningless and convoluted exercise since in any event, the Hon'ble Supreme Court and several High Courts have been repeatedly holding that an injunction hearing cannot be converted to a mini-trial of the suit.

77. In the present impugned judgment, the learned trial Judge fully set out all facets of the arguments of the parties and took a view that considering the overall circumstances of the case and the ratio of the judgment in **Midas Hygiene Industries (P) Ltd. (supra)** reported at **(2004) 3 SCC 90**, at this stage an ad interim order of injunction should be passed to resist infringement of copyright of the artistic and literary works of the late author or else the plaintiffs may suffer irreparable loss and injury that cannot be compensated by money.
78. The other argument of the appellant as to the injunction not being maintainable, since the plaintiffs could be compensated by money, also acquires relevance in the said context.
79. However, in the present case, the appellant has been publishing the works of late Narayan Debnath for a considerable time over various formats of media.
80. As such, even a basic assessment of liquidated damages might be impossible, since the extent to which such publications are



spread out and even the nature and variety of media through which the said publications are being distributed cannot be quantified at the first blush, unless a detailed exercise of evidentiary assessment is undertaken in the suit, which can be done only at the stage of trial.

81. Thus, at least at the ad interim stage, it cannot be said that damages would prove an adequate remedy to the plaintiffs/respondents.
82. Even otherwise, despite the question of damages being there, courts have consistently held that in copyright infringement suits, injunction has to be granted normally in all cases where a prima facie case has been made out, without looking at whether damages could afford an adequate remedy at that stage.
83. Taking into consideration such aspects of the matter, we do not find any reason to substitute our alternative views, even if possible to be taken, for that of the learned trial Judge, since there was no error, either of law or on fact, in the impugned order and the learned trial Judge adopted one of the possible views on the basis of the averments made in the injunction application and the plaint.
84. Thus, FMAT No. 18 of 2026 is dismissed on contest, thereby affirming the impugned order dated January 9, 2026 passed by



the learned District Judge at Alipore, District- South 24 Parganas in Title Suit No. 01 of 2026.

85. Consequentially, CAN 1 of 2026 is also disposed of.
86. It is made clear that none of the above observations shall be treated to be conclusive at any further stage of the injunction application or the suit and the learned trial Judge shall dispose of the injunction application as well as the suit on their respective merits without being influenced in any manner unnecessarily by any of the findings rendered above.
87. There will be no order as to costs.
88. Urgent certified photostat copy of this judgment and order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)

I agree.

(Supratim Bhattacharya, J.)