

01 26.04.24

Ct. No. 04

akd

F.A. 207 of 2019

CAN 10 of 2023

**Sri Subrata Kumar Chattopadhyay
Vs.**

Sri Subodh Kumar Chattopadhyay & Ors.

Re: CAN 10 of 2023

Mr. Kali Kinkar Dey.

**... for the applicant
(CAN 10 of 2023).**

Mr. Kunal Ganguly,

Mr. Kaustav Banerjee.

... for the appellant.

This is an application for correction of two typographical mistakes which according to the applicant has crept in the judgement dated 24th April, 2019.

It has been stated in the said application that at page seven in seventeenth line of the said judgement the date of the Deed was inadvertently mentioned as “05th July, 2003” instead of “05th July, 2013”.

The mistake is apparent. Let such mistake be rectified.

It has further been stated in the application that at page eight in seventh line of the said judgement instead of “defendant No. 2” it should be “defendant No. 6”.

With regard to the said prayer it would be relevant to point out that it was specifically observed at page seven of the said judgement to the following effect:

“.....Since the said transfer was made after the passing of the preliminary decree and the instant appeal is against the said preliminary decree, the transfer made by the respondent No. 2 in favour of the respondent No. 6 has no impact while adjudicating the instant appeal. As such the said

deed is not taken into consideration while deciding the instant appeal. Thus, the preliminary decree passed by the learned court below is modified only to the extent as indicated above. The defendant No. 1 has absolute right, title and interest in respect of the plot being Dag No. 2319 within Mouja Nasigram under Police Station Bhatar in the District of Burdwan, and the partition suit shall be treated to be dismissed, in so far as the said plot is concerned. The plaintiff, the defendant No. 1 and the defendant No. 2 shall have 1/3rd share each in all the properties mentioned in the schedule of the plaint excepting the plot being Dag No. 2319.”

In view of the said findings the prayer for correction of the number of the defendant as prayed for stands rejected.

The application being CAN 10 of 2023 is allowed in part.

Let this order be read conjointly with the judgement dated 24th April, 2019.

(Harish Tandon, J.)

(Hiranmay Bhattacharyya, J.)

