

AD. 13.
July 6, 2021.
MNS.

C. O. No. 824 of 2020
(Via video conference)

Samir Kumar Roy Chowdhury and others
Vs.
Dinesh Das and others

Mr. Partha Pratim Roy,
Mr. Dyutiman Banerjee

... for the petitioners.

Mr. Bhudeb Chatterjee

...for the opposite party no. 1.

Learned counsel for the petitioners contends that the trial court acted without jurisdiction in transferring and clubbing together three suits, in which the parties as well as the suit properties are different.

Learned counsel submits that in view of merely a portion of plot no. 418 being common to two of the suits, it cannot be said that the three suits can be heard analogously, particularly, since the parties are entirely different and the scope of relief is different in each of those.

Learned counsel appearing for the defendant-opposite party no. 1, who is the main opposite party, contends that although some extra properties have been added to plot no. 418

while defining the subject-matter of the suits, the original owner of all the properties was the same and the title stands derived from a single source in respect of the suit properties. That apart, it is argued by learned counsel for defendant-opposite party no. 1 that most of the parties in at least two of the suits are co-sharers of each other, for which there may be a conflict of decisions in the event the suits are decided separately.

Upon hearing learned counsel appearing for the contesting parties and going through the respective complaints of the three suits, it is evident that plot no. 418, that too a portion of it, is common in two of the suits. However, it is only the pleading of opposite party no. 1 that all the properties are common properties belonging to a single owner originally. The veracity of such pleading will be tested on evidence, in the respective suits where such properties are involved, only at the final hearing of the suits and such allegations, being still at an inchoate stage, cannot be a basis for clubbing the suits for analogous hearing.

Moreover, the identity of the original owner cannot be a guiding factor in directing the analogous hearing of distinct and different suits,

particularly since different reliefs regarding different properties have been claimed in the three suits, barring portions of plot no. 418 being common in at least two of the suits.

Since the parties in the three suits are mostly different, there is no question of evidence being led together in the suits and/or there being an identity of the issues to be framed for hearing of the three suits.

In such view of the matter, no useful purpose would be served in analogous hearing of the three suits, as directed by the court below in the impugned order.

Hence, the revisional application succeeds. C. O. No. 824 of 2020 is allowed, thereby setting aside the impugned order and segregating the three suits, which were clubbed together by the impugned order, for being heard by the respective courts where they were pending prior to the impugned order. It is expected that in the backdrop of the long pendency of the suits, the courts below shall make all endeavour to dispose of the suits as expeditiously as their respective rosters permit, although no specific outer limit for such disposal is fixed, keeping in

view the staggered functioning of the district courts due to the prevalent pandemic situation.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)