

24.03.2021
Court No. 19
Item No. 16
CP

C.O. 1049 of 2020

Ms. Prabha Ruia
vs.
Sri Shyam Sundar Chowdhury & ors.

(through video conference)

Mr. Aniruddha Chatterjee
Mr. Tanmoy Mukherjee
Ms. A. Poddar
Mr. R. Das

.....for the petitioner.

Mr. Susanta Dutta
Mr. Kaushik Mandal

....for the respondent no. 1.

This revisional application arises out of an order dated September 4, 2019 by which the learned commissioner was directed by the learned Civil Judge (Senior Division), 4th Court at Alipore to complete the commission work to enable the court to draw up the final decree.

It appears from the order impugned that both the parties had submitted before the learned court below to open the padlocks put on the areas which were under their respective possession.

It appears that the plaintiffs honoured their undertaking and opened the padlocks in the gates so that the commission work could be done without any hindrance. But the defendant no. 5 who is the petitioner before this court did not open the padlock

of the concerned room which were allegedly under her possession. As a result of which the commission work was stalled.

It appears that for the purpose of the commission work measurements of those rooms are required to be taken. The rooms have been mentioned as 4 rooms in the ground floor, 2 rooms on the first floor, a room and kitchen on the 2nd floor all situated in the western portion of the suit premises. They are still under lock and key and the defendant no. 5/petitioner failed to open the locks of the said rooms on the ground that the keys were lost. The defendant no. 5/petitioner filed an application before the learned court below, for a direction upon the learned commissioner to break open the padlocks of the rooms. The said application was rejected by the order impugned and the learned commissioner was directed to complete the commission work of the rest of the suit premises.

In my opinion, both the parties will be at a disadvantage if the rooms, which are still under lock and key, are not opened and measurements are not taken so that the commission work can be completed and the partition can be effected in terms of the preliminary decree.

Under such circumstances, the learned partition commissioner is authorized by this court to

break open the padlocks in the rooms as mentioned hereinabove and to take the measurements and complete the commission work as directed by the learned court below, including the measurements of these rooms. The defendant no. 5/petitioner after the measurements are completed will put a new lock in the rooms and hand over one set of keys to the learned partition commissioner.

The learned partition commissioner shall break open the padlocks within 10 (ten) days from date and complete the work expeditiously and file a report before the learned court below.

The order impugned is set aside.

The revisional application is disposed of. There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties as expeditiously as possible subject to compliance of all usual formalities.

(Shampa Sarkar, J.)