

**C.O. 3993 of 2019  
with  
C.O. 3436 of 2019**

**Sheuli Mazumdar (De)  
-Vs-  
Sila Mazumdar & Anr.**

Mr. Debutta Raha.  
....for the petitioner.  
Mr. Probal Kumar Mukherjee,  
Ms. Shaoni Dey.  
...for the opposite parties.

Affidavit-in-reply filed by the petitioner be  
kept with the record.

The issues to be decided in these two  
revisional applications are intermingled, as such  
taken up together for analogous hearing and  
disposal.

The mother and younger sister of the  
petitioner are the opposite party no. 1 and the  
opposite party no. 2 respectively in both the  
revisional applications.

The mother and the said sister of the  
petitioner jointly applied for grant of succession  
certificate of the monies of the deceased father of  
the petitioner lying in different bank accounts  
under fixed deposit certificates.

The said application has been registered  
before the learned District Delegate at Alipore  
District. 24 Parganas (South) being Act XXXIX  
case no. 49 of 2016.

The petitioner has filed a suit for partition of the immovable properties left by her father. The said suit being Title Suit No. 159 of 2015 is pending before the 5<sup>th</sup> Court of learned Civil Judge (Senior Division) at Alipore District. 24 Parganas (South).

The petitioner in the said Act XXXIX case no. 49 of 2016 filed an application under Order VII Rule 11 of the Code of Civil Procedure praying dismissal of the said suit on the ground that since the suit for partition of the joint property of the parties is pending the proceeding for grant of succession certificate in respect of immovable properties is not maintainable.

The learned District Delegate by the order dated November 11, 2019 has dismissed the said application of the petitioner with costs of Rs. 10,000/- holding that the shares of the parties are admitted and the proceeding has reached to its final stage but the petitioner is obstructing the opposite parties in securing their share over the joint movable property. The learned District Delegate further found that the petitioner filed similar type of application earlier but was rejected.

The petitioner is challenging the said order in C.O. 3993 of 2019.

The pendency of a suit for partition of the joint immovable properties of the parties is not a

bar to maintain a proceeding for succession certificate in respect of joint movable properties of the parties.

The learned Trial Judge has committed no error in dismissing the application filed by the petitioner for dismissal of the said Act XXXIX case no. 49 of 2016.

The petitioner in C.O. 3446 of 2019 is challenging the order dated July 25, 2019 passed in the said partition suit whereby her application seeking amendment of the plaint has been rejected.

The petitioner by the proposed amendment sought to include the movable properties which are the subject matter of the proceeding for grant of succession certificate in the schedule of the said partition suit.

The learned Trial Judge considering the stage of the proceeding for grant of succession certificate has rejected the said application for amendment.

This Court does not find any illegality and/or irregularity in the order impugned warranting interference.

C.O. 3436 of 2019 and C.O. 3993 of 2019 are dismissed for the reasons discussed above. No order for costs.

In view of the age of the opposite party no.  
1 the learned District Delegate Alipore is

requested to expedite the disposal of the Act XXXIX case no. 49 of 2016.

The shares of the parties in the subject matter of the partition suit are almost admitted. The opposite parties are at liberty to apply before the 5<sup>th</sup> Court of learned Civil Judge (Senior Division) at Alipore District. 24 Parganas (South) where the partition suit between the parties for a preliminary decree of partition on admission.

If such an application is made the said learned Court shall make all endeavour to dispose of the said application in accordance with law as expeditiously as possible.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

**(Biswajit Basu, J.)**