

14.01.2022
Ct. No.18
Item No.21 & 22
AJ.

C.O. 481 of 2020

(Via Video Conference)

Sri Lalit Mohan Ghosh & Ors.

-Vs-

Sri Pradip Kumar Lala & Ors.

with

C.O. 1760 of 2021

Pradip Kumar Lala & Ors.

-Vs-

Lalit Mohan Ghosh & Ors.

Mr. Susenjit Banik.

....for the petitioners in
C.O. 481 of 2020 &
for the opposite parties
in C.O. 1760 of 2021.

Mr. Bhaskar Ghose, Sr. Advocate,
Mrs. Debarati Sen (Bose),
Mr. Siddhartha Paul.

...for the opposite parties
in C.O. 481 of 2020 &
for the petitioners in
C.O.1760 of 2021.

These two revisional applications are arising out of the selfsame suit, as such, taken up for analogous hearing and disposal.

The petitioners of the C.O. 481 of 2020 filed a suit for partition being Title Suit No. 92 of 1977 in the 1st Court of Civil Judge (Senior Division), Hooghly.

Some of the defendants of the said suit are the petitioners of C.O. 1760 of 2021 and in the said suit they filed an application under Section 4 of the Partition Act 1893, which was registered before the learned Trial Judge as Misc. Case no. 39 of 1981.

The said Misc. Case was allowed by the learned Trial Judge by the order dated January 29, 1982 and the said order was affirmed in the appeal by the High Court.

The petitioners of the revisional application, being C.O.481 of 2021 are challenging the order No.118 dated November 29, 2019 passed in the said Misc. Case whereby their prayer for appointment of a fresh Commissioner for the purpose of re-assessment of the value of their share in the suit family dwelling house, directed to be conveyed in favour of the petitioners of C.O 1760 of 2021 has been dismissed.

The Commissioner has assessed the value of said share of the plaintiffs and has submitted his report before the learned Trial Judge, in pursuance whereof the petitioners of C.O. 1760 of 2021 have deposited the entire assessed amount.

The learned Trial Judge has dismissed the said application for appointment of a fresh Commissioner holding that there was no challenge to the Commissioner's report already submitted.

In the absence of such challenge, the prayer for appointment of a fresh Commissioner for the purpose of re-assessment of the value of the share of the plaintiff in the suit property is misconceived, as such, C.O. 481 of 2021 is dismissed without any order as to costs.

The petitioners of C.O. 1760 of 2021 are praying that the Misc. Case No 39 of 1981, may be directed to be disposed of expeditiously upon execution of necessary deed of conveyance.

The value of the share of the plaintiff in the suit dwelling house has already been ascertained and the said ascertained value has already been deposited by the petitioners of the aforementioned Misc. Case, as such, there cannot be any impediment for expeditious disposal of the said Misc. Case.

The 1st Court of learned Civil Judge (Senior Division) District, Hooghly is requested to dispose of the Misc. Case No. 39 of 1981 connected with Title Suit no. 92 of 1977 by executing necessary deed of conveyance in respect of the share of the plaintiffs in the suit family dwelling house in favour of the petitioners of the said Misc. Case as expeditiously as possible preferably within a period of three available effective working months of the said Court from the date of communication of this order.

C.O. 1760 of 2021 is disposed of with the above terms without any order as to costs.

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.)