

DL. January 4,
54. 2022

Through Video Conference

F.A.T. 175 of 20218

Sk. Laku & ors.

Vs.

Sk. Riajuddin & ors.

Mr. Chirantan Sarkar,
...for the appellants.

Mr. Syed Nurul Arefin,
...for the respondents no. 1 to 3.

Re: CAN 2202 of 2018 (Stay)
filed on April 13, 2018.

Although the matter is appearing under the heading “application”, by consent of the parties, the appeal itself is taken up for final consideration.

The appellants are aggrieved by the judgment and decree dated December 14, 2017 passed by the learned Civil Judge (Senior Division) at Burdwan, by which the report of the learned advocate commissioner was accepted.

The learned advocate appearing on behalf of the appellants has submitted that the learned trial judge has completely misdirected his mind in accepting the report submitted by the learned advocate commissioner disregarding the vehement objection raised by the appellants with regard to various defects in the said report. It is argued before us that there is a glaring defect in identification of the suit property.

We have perused the judgment under appeal passed by

the court below as well as the report of the learned advocate commissioner. The dispute is with regard to 4.3 decimals of land only as presently raised before us on behalf of the appellants. This is an admitted position that the learned advocate commissioner conducted the chain survey as well as took independent measurement with the assistance of the other mouza map in presence of the parties. It is significant to mention that both the parties have identified the suit property and on the basis of such identification and the same being compared with the respective mouza map of plots no. 10085, 10086 and 10087, the findings were arrived at by the learned advocate commissioner. The portion taken up for partition work was 1803.03 sq. ft., that is, 4.144 cents of land. The plaintiffs have claim more area which has now been curtailed by reason of the said survey report and reduced to 4.3 decimals of land in reality.

In our view, once the parties have duly identified the suit property and the discrepancies are negligible, there is no manifest error in the report prepared by the learned advocate commissioner.

On such consideration, the appeal and the connected application for stay are dismissed.

There will, however, be no order as to costs.

(Soumen Sen, J.)

(Ajoy Kumar Mukherjee, J.)

