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C.O. 1301 of 2022

**Sri Balkrishna Bhalotia & Ors.
Vs
Sri Jagdish Prasad Bhalotia & Ors.**

Mr. Probal Mukerjee, Sr. Adv.
Mr. Nirmalya Dasgupta For the petitioners.

Mr. Prabal Mukerjee, learned senior advocate appearing for the petitioners submits that admittedly the preliminary decree was granted declaring share of co-sharers in partition suit, on 10th May, 2010 and thereafter order final decree was passed on 20th September, 2019.

It is contended by Mr. Mukherjee that till date the formal decree could not be drawn up by the court below, resulting in serious prejudice to the valuable rights of the co-sharers, whose shares have already been declared granting preliminary decree.

It is further submitted by Mr. Mukerhjee that all formalities necessary for drawing final decree have already been complied with.

The provisions available in Order 20 Rule 8 of the Code of Civil Procedure is thus sought to be made applicable, so that the final decree may be drawn up without any further delay. The provisions of Order 20 Rule 8, as referred hereinabove by Mr. Mukehrjee, may be mentioned hereinbelow:

“8. Procedure where Judge has vacated

office before signing decree. - *Where a Judge has vacated office after pronouncing judgment, but without signing the decree, a decree drawn up in accordance with such judgment may be signed by his successor or, if the Court has ceased to exist, by the Judge of any Court to which such Court was subordinate."*

There is thus a detailed provision mentioned in C.P.C. as to how the decree may be signed, in the event of learned presiding Judge having vacated his office without signing the decree.

No other point is raised requiring address by this Court.

In view of the nature of the order proposed to be made in this case, no prior notice is considered to be necessary upon the opposite parties.

Service of notice of this application upon opposite parties stands dispensed with.

No further elaboration is thus necessary, because the law itself is very clear, which has been mentioned in Order 20 Rule 8 in unambiguous terms.

The revisional application is thus disposed of, reposing trust and confidence upon court below that the drawl of the final decree of partition suit may be drawn up in Title Suit No. 1593 of 2008 of learned Civil Judge (Junior Division) 3rd Court, Alipore expeditiously upon strictly adhering to the provisions incorporated under Order 20 Rule 8, as mentioned

hereinabove, which may be ended by putting signature of the presiding Judge of learned Civil Judge (Junior Division) 3rd Court, Alipore in due obedience to Order 20 Rule 8 of the C.P.C.

Petitioners are directed to make communication of this order to the learned court below as well as to the learned advocate appearing in the court below for the opposite parties and the opposite parties.

With this observation and direction, the revisional application stands disposed of.

Urgent photostat certified copy of the order, if applied for, be given to the parties on usual undertakings.

(Subhasis Dasgupta, J)