

Item No.- 39
29.01.2025
Rohan
Court No. 8

**In the High Court at Calcutta
Civil Appellate Jurisdiction
Appellate Side**

**FA 348 OF 2013
with
I.A. No.: CAN 8 of 2024
I.A. No.: CAN 9 of 2025**

**Abdus Samad & Ors.
Versus
Abdul Aziz & Ors.**

**Mr. Sounak Bhattacharya,
Mr. Sounak Mandal,
Mr. Abhirup Haldar**

... for the appellants

**Mr. Suprobhat Bhattacharya,
Mr. Md. Habibur Rahman**

... for the respondent No. 40

In Re.: CAN 9 of 2025

1. This is an application at the behest of the defendant No. 40 in the partition suit seeking the return of the original title deed of the applicant marked as exhibit therein upon furnishing the photocopy thereof.
2. The objection is raised by the counsel for the appellants that the purpose for which the said document is sought to be handed over to the applicant would create a further anomalous situation and will invite multiple proceedings amongst the parties.
3. We had an occasion to peruse the records arrived to this Court wherefrom it appears that only seven persons stood as witnesses for and on behalf of the defendants in the partition suit. The name of the applicant does not find place in the record as witness. Several deeds have been exhibited in the said suit for and on behalf of the defendants and logically, it infer

that those title deeds were tendered by the witnesses at the time of their depositions.

4. The applicant never stood as a witness and, therefore, there is no occasion to tender any such deed by him to be received in evidence or to be marked exhibit. The documents which are marked exhibits in the proceedings can only be returned to a person who tendered at the time of the deposition and cannot be given to a person from whose custody the said documents did not come. Since the applicant never stood as a witness and, therefore, did not tender any such deed to be received in evidence or to be marked exhibit, it is not desirable that the document which was in possession of another person be given to the applicant.
5. The application being **CAN 9 of 2025** is **dismissed**.
6. No order as to cost.

In Re.: CAN 8 of 2024

7. After perusal of the averments as well as the prayer made therein, we feel that an opportunity should be given to the contesting respondents in the instant appeal to disclose their stand in the form of affidavit.
8. Accordingly, let the affidavit-in-opposition to the said application be filed by the respondents within two weeks from date.
9. Reply, if any, be filed within a week thereafter.
10. The application is made returnable after three weeks.

(HARISH TANDON, J)

(PRASENJIT BISWAS, J)