

20.09.2023.
Item No. 3.
Court No. 13
ap

F.A.T. No. 81 of 2023
With
I.A. No. CAN 1 of 2023
Sri Dilip Kumar Mehra (Khettry) & Ors.
Versus
The Calcutta Expended Manufacturing Company
Private Limited & Ors.

1. The matter has been listed at the instance of this Court. After the order dated 18th September, 2023 was dictated in open Court and before it was signed by either of us, this Court has found that the decree in question was, passed on the basis of terms of application dated 18th November, 2022 made before the Court below i.e. the learned Civil Judge (Senior Division), 2nd Court at Howrah in Title Suit No. 344 of 2019.
2. The terms indicate that the parties were in essence after partition effecting sale of the property in question to the defendants.
3. This Court was misled by the parties in that it was represented before this Court that the decree and terms filed by the parties in the Court below were restricted to a mere partition between the co-sharers. The factum of sale to the defendants has not been placed before this Court.

4. In view of the above, this Court is not inclined to interfere with the judgment and decree directing the parties to file requisite stamp paper on which the final decree is required to be engrossed. The impugned judgment is, therefore, upheld. The final decree must be engrossed on stamp paper.

5. F.A.T. No. 81 of 2023 shall stand dismissed.

6. The order dated 18th September, 2023 dictated in open Court and not signed by any of us is retained with the record.

7. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Supratim Bhattacharya, J.)