

05.04.2023

Sl. 102

Ct.No. 3

Amalranjan

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

FMA 627 of 2022

With

CAN 1 of 2022

Ashis Kumar Maity

Vs.

Shefali Maity & Ors.

Mr. Tanmoy Mukherjee

Mr. Sagnik chatterjee

Mr. Sayan Mukherjee

...for the appellant/plaintiff

Mr. Sanjib Kumar Mal

Mr. Arun Kumar Ghosh

Mr. Saptarshi Kumar Mal

...for the respondent/defendant no.2

Mrs. Jyotsna Roy Mukherjee

...Special officer

Re: CAN 1 of 2022

We have heard learned counsel for the parties at length.

We are in a position to dispose of this appeal.

The report of the Special Officer appointed by us by our order dated 16th December, 2022 is taken on record. Copies be circulated to the parties.

We asked learned counsel for the parties whether they would like to take exception to this report.

None of the parties wants to file any exception to it. Therefore, we take the contents of the report to be true and correct.

The subject matter of the suit is 11 flats in a property in Lake Gardens, Kolkata. According to the report, 1) six are occupied by the second respondent, 2) two are in the occupation of the third and fourth respondents, 3) two have been sold and 4) one is vacant and under lock and key. Out of two flats sold one has been sold to two advocates and the other two one Swadesh Ranjan Maity. Swadesh Ranjan Maity has let it out to one Clarence Ludgwick at a rent of Rs. 12,000/- per month. No other income of the property is disclosed in the report.

Mr. Tanmoy Mukherjee, learned advocate for the appellant submits that there is a huge amount of outstanding on account of unpaid municipal taxes.

Considering the submissions made, we think it fit and proper to expedite the hearing of the partition and administration suit.

We are told that the examination of the plaintiff's witnesses is continuing. We direct

that the suit be disposed of by 31st December, 2023.

Till disposal of the suit, the Special Officer appointed by us shall be in symbolic possession of the suit property and to ensure that the status quo regarding occupation, as mentioned above, is not altered till the decree is made or by order of this court, whichever is earlier.

Furthermore, from time to time, the Special Officer shall call a meeting of the parties to obtain their consent, so that, the vacant room/flat could be let out on a short-term basis and rent/occupation charges realised be utilised to meet the liabilities of the properties.

The Special Officer shall be paid a monthly remuneration of Rs. 10,000/- to be borne by each of the parties in accordance with their shares in the property.

The appeal and the application are disposed of.

The interim application before the learned court below in which the impugned judgment and order was made is also disposed of in terms of this order, superseding the impugned judgment and order.

The learned court below may be approached to record disposal of that application in its records.

Urgent certified photocopy of this order, if applied for, be given to learned advocates for the parties upon compliance of all requisite formalities.

(Biswaroop Chowdhury,J.) (I. P. Mukerji,J.)