

12.10.2023
Sl. No.11(DL)
srm

C.O. No. 3076 of 2022

Subharun Mitra

Versus

Joyeeta Ghosh & Ors.

Mr. Anirban Ray,
Mr. Debanik Banerjee,
Mr. Steven S. Biswas,
Mr. Sounak Banerjee

...for the Petitioner.

The revisional application arises out of an order dated June 9, 2022 passed by the learned Civil Judge (Senior Division), 10th Court, Alipore, in Title Suit No.48 of 2022.

The suit is for partition. One of the co-sharers, i.e. the defendant No.1(c) filed an application for repair. The said application is at page 18 of the revisional application, being Annexure-B. Paragraphs 4, 5 and 6 indicate the extensive nature of repair which the petitioner wanted to undertake during the subsistence of the order of status quo. The learned court below, rightly held that without first ascertaining the scope and nature of repair that the property required, it would not be proper for the court to allow such extensive repair.

In my opinion, paragraphs 4, 5 and 6 indicate that the repair enumerated is of huge magnitude. Extensive alterations

and replacements have been narrated in great detail. During the subsistence of a partition suit and order of *status quo*, immediate/urgent repair can be allowed, without a party claiming any equity. When the nature of the application does not indicate that the petitioner wants to carry out minimal repair required to protect and use the property, it is prudent to have a report from a neutral individual. The petitioner prays for a complete renovation.

Under such circumstances, the learned court below rightly held that without any local inspection and without ascertaining the exact amount and nature of repair to be conducted, the petitioner should not be permitted to carry out such repair.

The petitioner is at liberty to approach the learned court below for necessary orders.

The revisional application is disposed of.

There shall be no order as to costs.

Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)