

C.O. 4358 of 2019
CAN 1 of 2020

In the Matter of : Shyamal Kumar Pal

Mr. Meghnad Dutta
Mr. Arindam Paul
Mr. Abhishek Shaw ... for the petitioner

Mr. Surya Prasad Chatterjee ... for the O.P.

1. Heard Mr. Dutta, learned counsel appearing on behalf of the petitioner and Mr. Samanta, learned counsel representing the opposite party.
2. It is submitted by Mr. Dutta quite correctly that Debottar Properties cannot be brought to hotchpotch suit for partition. Therefore, the Premises no. 51 and 53A Canning Street (formerly known Old China Bazar Street) as depicted in 'Schedule -F' ought to have been expunged by the learned Trial Court. Learned Trial Court had no reason to decide the issue by considering the evidence on record when this fact stands admitted.
3. To buttress his point, Mr. Dutta makes me go through the order of the Co-ordinate Bench passed on 20.9.2019.
4. It is submitted by Mr. Chatterjee that the property is in the hand of the Receiver and without taking leave of the learned Trial Court that appointed Receiver the petitioner cannot approach this Court for relief.

5. Under such circumstances, though I am in agreement with Mr. Dutta, that this property delineated in 'Schedule – F' being the Debottar property cannot be a subject matter of partition. Since the property is in the hand of the Receiver and the learned Receiver was appointed by the learned Trial Court inclined to pass the order.
6. Learned Trial Court is directed to expunge the Schedule – F property from the plaint after considering the formal application to be filed by the defendant no. 1 afresh.
7. Mr. Chatterjee, strenuously, argues that the receiver is not submitting any accounts.
8. Since the Receiver is under obligation to submit accounts before the learned Court, learned Trial Court shall direct the receiver to place the accounts within four weeks from date of receipt of the order.
9. The revisional application is disposed of along with application being CAN 1 of 2020.
10. Let a copy of the order be sent down to the learned Trial Court, for information and necessary action.

(Siddhartha Roy Chowdhury, J.)