

05.08.2024
(M/L-07)
Ct.-19
(Susanta)

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

C.O. 531 of 2024

Smt. Alo Rani Pal

-Vs-

Smt. Gopa Mukherjee (Banerjee) & Ors.

Mr. Aniruddha Chatterjee,

Mr. Abir Lal Chakravorti,

... For the Petitioner.

Mr. Argha Bhattacharjee,

.... For the O.P. Nos. 1 & 2.

Affidavit-of-service filed on behalf of the petitioner
be kept with the record.

The instant application under Article 227 of the
Constitution of India is at the instance of the defendant
no.1 in a suit for partition and is directed against the
Order No. 32 dated November 28, 2023 passed by the
learned Civil Judge (Senior Division), Bankura, in the
said suit being *Title Suit No. 140 of 2022*.

The learned Trial judge by the order impugned has
refused the prayer of the petitioner for framing a
preliminary issue to determine the maintainability of the
said suit.

The petitioner is contesting the suit with a defence
that by virtue of a registered Deed of Partition bearing
No. 64C for the year 1934, the suit properties have been
already partitioned amongst the predecessors-in-
interest of the parties, as such, the present suit is not
maintainable.

The suit properties, if are already partitioned as
alleged, the present suit for partition is not

maintainable; therefore, instead of the suit properties being left entangled in the present partition suit, the interest of justice demands that the maintainability of the said suit be determined on the preliminary issue of maintainability.

The learned Trial Judge therefore is requested to frame an issue as to whether the suit properties have already been partitioned by the Deed No. 64C for the year 1934, and depending upon the answer to the said issue shall take further steps.

To facilitate the said exercise, the order impugned is set aside; C.O. 531 of 2024 is thus allowed without any order as to costs.

Parties to act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)