

In The High Court At Calcutta
Civil Revisional Jurisdiction
(Appellate Side)
C.O. 2333 of 2024

Sri Prabir Dutta
Vs.
Sri Subhendu Kumar Dutta & Ors.

Mr. Biswajit Sau

... For the petitioner.

The defendant no. 1 in a suit for partition is the petitioner of the instant application under Article 227 of the Constitution of India, which is directed against order dated May 15, 2024 passed by the 4th Court of learned Civil Judge (Senior Division) at Alipore, District – 24 Parganas South in the said suit being Title Suit No. 12119 of 2013.

The learned Trial Judge by the order impugned has refused to re-open the preliminary decree to allow the petitioner to adduce evidence on the ground that the petitioner has not disputed the share declared in his favour under the said preliminary decree.

The learned advocate for the petitioner submits that his client has spent money in the development of a portion of the suit property, which he intends to bring on record by adducing evidence but the learned Trial Judge did not allow it.

The investment by the parties in the joint property and/or their respective possession therein are relevant consideration at the final decree stage, as such when there is no dispute with regard to the shares declared under the preliminary decree, it cannot be re-opened, the order impugned, therefore does not call for any interference.

C.O. 2333 of 2024 is therefore dismissed without any order as to costs.

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.)