

06.05.2024
Item No.7
gd/ssd

CO/3371/2023
TAPAN ROY CHOWDHURY
VS
SIPRA ROY CHOWDHURY AND OTHERS

Mr. Bhaskar Roy
..for the Petitioner.

Mr. Krishnendu Sarkar,
Mr. Abhijit Basu
..for the Opposite party No.1(i)
and 1(ii).

Affidavit of service filed in court today is taken
on record.

This is an application for expeditious disposal
of the pending applications in connection with Title
Suit No.39 of 2008 pending before the learned Civil
Judge (Senior Division), 3rd Court at Alipore.

The preliminary decree in the suit for partition
being Title Suit No.39 of 2008 was passed on 4th
February, 2010. A Misc. Case under Order IX Rule
13 of the Code of Civil Procedure being Misc. Case
No.11 of 2014 was filed at the instance of one of the
defendants, namely, Smt. Manashi Ghosh. The said
Misc. Case No.11 of 2014, however, stood dismissed
for default on 2nd December, 2013. An application
under Order IX Rule 9 of the Code of Civil Procedure
for setting aside the said order of dismissal was filed
which was registered as Misc. Case No.36 of 2023.

The learned Advocate appearing for the petitioner submits that several applications filed by the petitioner herein as well as the opposite parties are still pending.

However, taking note of the fact that a Misc. Case under Order IX Rule 13 of the Code for setting aside the ex parte preliminary decree stood dismissed for default and a Misc. Case for restoration of the same is pending, this court is of the considered view that the Misc. Case under Order IX Rule 9 of the Code of Civil Procedure being Misc. Case No.36 of 2023 is to be disposed of first.

In view thereof, the learned Civil Judge (Senior Division), 3rd Court at Alipore is requested to take up the hearing of the Misc. Case No.36 of 2023 on the next date fixed, if the same is otherwise ready for hearing, and to dispose of the same as expeditiously as possible without granting any unnecessary adjournments to either of the parties.

With the aforesaid direction, CO 3371 of 2023 stands disposed of.

There will be no order as to costs.

Urgent certified copy of this order, if applied for, be given to the learned advocates for the parties on usual formalities.

(HIRANMAY BHATTACHARYYA, J.)