

06.03.2024
Court No. 19
Item no.16
CP

C.O. No. 3914 of 2023
Smt. Sibani Dasgupta
Vs.
Sri Salil Dutta & Ors.

Mr. Bijoy Adhikary
Mr. Supriyo Ghosh
Ms. Susmita Adhikary
.....for the petitioner.

Mr. Dipayan Kundu
Mr. Soumya Sankar Chini

....for the opposite parties/defendants.

By an order dated August 23, 2023, passed by the learned Civil Judge (Senior Division), Sealdah in a suit for partition and accounts being Title Suit No. 120 of 2005, the learned court accepted the commissioner's report along with the plan.

Mr. Adhikary, learned advocate for the petitioner, submits that specific objections with regard to the report were raised. The partition commissioner was cross-examined but the learned court accepted the report without addressing the objections which had been raised.

Mr. Kundu, learned advocate appears for the defendants in the suit, and submits that the petitioner was given ample opportunity to file the objection to the report and to cross-examine the partition commissioner. The objections were on the merits of the preliminary decree which could not be

decided at the stage of acceptance of the learned commissioner's report, when there was no challenge to the preliminary decree by way of an appeal.

Having heard the rival contentions, this court finds that Mr. Adhikary is right in contending that the learned court ought to have accepted the report after dealing with the objections of the petitioner. The reasons as to why the objections of the petitioner were not tenable in law should have been assigned by the learned judge.

Under such circumstances, the order impugned is set aside.

The learned court is directed to rehear the objection to the partition commissioner's report and pass orders with reasons. This court has not gone into the merits of the issues raised.

Needless to mention, the defendants shall get ample opportunity to contest the objection filed by the petitioner.

The revisional application is accordingly disposed of.

There shall be no order as to costs.

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

(Shampa Sarkar, J.)