

**IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
ORIGINAL SIDE**

Present:

The Hon'ble Justice Sugato Majumdar

CS/321/2011

SURESH KUMAR BENANI & ORS.
VS
RAMGOPAL BENANI AND ORS.

For the Plaintiffs	:	Mr. Aniruddha Mitra, Adv. Mr. Joydeb Ghorai, Adv. Mr. Diptesh Ghorai, Adv. Mr. Dipayan Dasgupta, Adv. Mr. Suman Chatterjee, Adv.
For Defendant nos. 1 to 7	:	Mr. Pradeep Kumar, Adv.
For Defendant nos. 9 & 10	:	Mr. Deb Kumar Chandra, Adv. Mr. Sanjoy Das, Adv.
For Defendant nos. 15 to 18, 20, 21, 24 & 25	:	Mr. Sayak Konar, Adv.
For Defendant nos. 8, 11(b), 12 & 13	:	Mr. Anubhav Sinha, Adv. Mr. Ashis Kr. Mukherjee, Adv. Mr. Saurabh Prasad, Adv.
For the Receiver	:	Mr. Debraj Bhattacharya, Adv.
Hearing concluded on	:	24/09/2024
Judgment on	:	30/09/2024

Sugato Majumdar, J.:

This is a suit for partition by metes and bounds of the immovable properties described in Schedule-E of the plaint.

Preliminary decree was drawn up on 25/02/2020 which was subsequently amended in terms of various orders passed by this Court.

Partition Commissioner was appointed who submitted his final report dated 30/12/2023 to this Court. All the parties accepted the Report of the Partition Commissioner without any demur or exception.

In view of deaths and relinquishment the following names shall be deleted from the Report of the Partition Commissioner:

Particulars	Name	Lot No.	Reason
Plaintiff no. 2	Pamela Dujari	E	Relinquishment Affidavit
Defendant no. 2	Rachna Baheti	B	Relinquishment Affidavit
Defendant no. 14	Om Prakash Benani	D	Died on 01.02.2024
Defendant no. 15	Jayanti Kabra	D	Relinquishment Affidavit
Defendant no. 18	Jyoti Karwa	D	Relinquishment Affidavit
Defendant no. 22	Durga Devi Benani	A	Died on 08.06.2024

Immovable properties, subject matter of partition, are:

- i. Premises No. 16, Dum Dum Cossipore Road, Kolkata,
presently holding No. 128, Dum Dum Cossipore
Road, Kolkata – 700074.

- ii. Premises No. 24, Strand Road, Kolkata – 700001
(also known as a portion of 22/1, 23 and 23/1, Strand Road in the Kolkata Municipal Corporation records).
- iii. A portion of 5B, N.C. Dutta Sarani, Kolkata – 700001.

Property shall be divided among the lots constituted by group of parties in the following manner; each group shall be headed by the eldest member by the group.

<u>Lot</u>	<u>Group</u>	<u>Share</u>	<u>Eldest Member in Group</u>
A	Defendant Nos. 8, 9, 10 11b, 12 and 13 (jointly)	1/3 rd	Ghanshyamdas Benani
B	Defendant Nos. 1, 3 to 7 (jointly)	1/3 rd	Ramgopal Benani
C	Defendant Nos. 20, 21 & 25 (jointly)	1/9 th	Smt. Santosh Benani
D	Defendant Nos. 16, 17 & 24 (jointly)	1/9 th	Smt. Sarla Devi Benani
E	Plaintiff Nos. 1, 3 to 6 (jointly)	1/9 th	Suresh Kumar Benani

In the following manner the property shall be distributed among different lots in accordance with the Report of the Commissioner.

A sum of Rs.15,00,000/- approximately is lying in the bank account of the Learned Receiver. A sum of Rs.1,00,000/- + 10% (clerkage) shall be retained by the Learned Partition Commissioner and the Learned Receiver, each, as their full and final settlement. A sum of Rs.50,000/- shall be paid to the Plaintiffs for

reimbursement on account of payment stamp duty. The rest of the amount shall be distributed equally among the five lots as per their shares. Eldest member of the each lot shall receive payment from the Learned Receiver on behalf of the lot. In case any of the eldest member refuse to receive such payment, the same shall be deposited with the Learned Registrar, Original Side.

It is further clarified that each lot may *inter se* distribute the sum of money so received. It will not be the liability of the Learned Receiver or the Learned Partition Commissioner to make distribution *inter se* member of the each lot.

The Learned Commissioner for Partition shall execute and register necessary registered deeds. The Learned Receiver shall be discharged after disbursement of the sum of money lying in the bank account and the Learned Partition Commissioner shall be discharged on execution of necessary registered deeds.

Let decree be drawn up.

Report of the Learned Partition Commissioner shall be part of the decree.

The instant suit stands disposed of.

(Sugato Majumdar, J.)