

0204
2025

WEDNESDAY

Court : CB-07
Item : DL-09
Bench : SINGLE
Matter : CO
Status : DO
ID : 266057
AR : NANDY

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE

CO 271 OF 2025

ANUKUL CHANDRA DAS & ANR.
VS.
RAMCHANDRA MAITY & ORS.

MR. SOUNAK BHATTACHARYA, ADVOCATE
MR. SOUNAK MONDAL, ADVOCATE
MR. ABHIRUP HALDER, ADVOCATE
MR. ANIRBAN SAHA ROY, ADVOCATE

.....for the Petitioners

1. The present revisional application has been filed challenging order no. 47 dated 21.06.2024, passed by the learned Civil Judge (Junior Division), Additional Court, Tamluk, in Title Suit No. 53 of 2020, whereby the report of the Commissioner has been provisionally accepted and marked as Exhibit-I series.
2. Mr. Sounak Bhattacharya, learned Advocate representing the petitioners/defendants, submits that the concept of accepting any report provisionally is foreign to the Code of Civil Procedure, 1908. He contends that this action was taken because the defendants/petitioners failed to file written objections to the Commissioner's report within the time frame specified by the learned Trial Court. Mr. Bhattacharya further submits that, if granted an opportunity, the defendants would be able to file their written objections to the report within a fortnight from the date. He also submits that the preemptory hearing of the suit has yet to commence. Therefore, he argues that the plaintiffs/opposite parties would not be prejudiced if the defendants/petitioners are allowed to file their written objections to the report. Additionally, Mr. Bhattacharya submits that

the Commissioner's report has not yet been served upon the defendants.

3. Briefly stated, the facts leading to the filing of the present revisional application are that the plaintiffs/opposite parties herein instituted a suit for declaration of title, permanent injunction, as well as for a decree of mandatory injunction. Pursuant to an application filed under Order 26, Rule IX of the Code, a commissioner was appointed to conduct a local investigation of the suit property. The Commissioner carried out the commission work in the presence of both parties and submitted the report.
4. As mentioned earlier, the defendants failed to submit written objections to the report within the time specified by the Trial Court. By order dated 11.06.2024, the Trial Court observed that if written objections were not filed within the stipulated time, the report would be provisionally accepted. Due to the defendants' failure to comply, the report was consequently provisionally accepted and marked as Exhibit-I series.
5. However, in light of the defendants/petitioners' submission that they can file written objections to the report within 15 days from the date of receipt of the certified copy of the report, I am of the opinion that there is no reason to keep this revisional application pending any further, as doing so would only cause further delay in the adjudication of the *lis*.
6. Therefore, having heard the learned advocate representing the petitioners and upon perusal of the materials on record placed before me, I am of the considered opinion that, in the interest of

justice, a final opportunity should be granted to the petitioners to file written objections to the Commissioner's report. Accordingly, order no. 47, dated 21.06.2024, is set aside. Since I am granting the defendants a final opportunity to file written objections to the Commissioner's report, order no. 54, dated 23.12.2024, is also set aside.

7. The petitioners are directed to apply for the certified copy of the Commissioner's report by 04.04.2025. If such an application for the certified copy of the Commissioner's report is filed, the same shall be supplied to the petitioners on an urgent basis by 11.04.2025. Upon receipt of the certified copy within the specified time, the petitioners are granted a final opportunity to file their written objections to the Commissioner's report by 28.04.2025.
8. It is hereby made clear that, if the petitioners file their written objections to the Commissioner's report within the time specified above, the Trial Court shall consider the issues raised in those objections before accepting the Commissioner's report as evidence and part of the record. It is further stated that the parties shall have the liberty to examine the Commissioner regarding any aspect of the matter referred to in the report. However, it is also clarified that if the defendants/petitioners fail to file their written objections within the time stipulated above, the Trial Court shall have the liberty to proceed with the matter in accordance with the law.

9. With these observations, the application being **CO 271 of 2025** is **disposed of**.

(PARTHA SARATHI CHATTERJEE, J.)