

CO 451 of 2025

Moumita Datta
vs.
Maksud Rahaman Laskar & Anr.

Mr. Priyabrata Batabyal
...for the petitioner

Mr. Pintu Karar
Mr. Soummyadeep Nag
Mr. Sabab Uddin Laskar

...for the opposite parties

This application under Article 227 of the Constitution of India is at the instance of the defendant No. 1 in a suit for partition and a consequential relief and is directed against an order No. 27 dated 16th January, 2025 passed by the learned Civil Judge (Senior Division) 1st Court, Baruipur in Title Suit No. 103 of 2022.

By the order impugned, an application under Order VII Rule 11 of the Code of Civil Procedure stood rejected.

Learned advocate appearing for the petitioner submits that the suit property was partitioned by a registered deed of partition being No. 7677 of the year 1969. He further submits that the fact of such partition of the suit property has been admitted in the plaint of the instant suit. He, therefore, submits that the plaint of the instant suit is liable to be rejected as the suit property has been subject to previous partition.

After going through the plaint of the said suit this Court finds that though it has been admitted that there exists a partition deed of the

year 1969 but it has been specifically pleaded in the plaint that the property has not been partitioned by metes and bounds.

The plaintiff has specifically stated in the plaint that they are in possession of specific portions of the property as per mutual arrangement. Whether the property has been partitioned by metes and bounds or not, cannot be decided at the stage of hearing an application under Order VII Rule 11 of the Code of Civil Procedure.

In view thereof, this Court is not inclined to interfere with the order impugned.

Accordingly, CO 451 of 2025 stands dismissed.

However, there shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(Hiranmay Bhattacharyya, J.)