

Sl.73
11.03.2025
Court No.6
BP

C.O. 469 of 2025

Pritha Nandi
-versus-
Annapurna Nandi & Anr.

Mr. Gopal Chandra Ghosh
Ms. Kaberi Ghosh (Dey)
... for the petitioner

Mr. Sumitava Chakraborty
..for the opposite party no.1

Mr. Debanik Banerjee
Mr. Sourojit Dasgupta
Mr. S.S. Biswas
..for the opposite party no.2

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

This application under Article 227 of the Constitution of India is at the instance of the plaintiff in a suit for partition and is directed against an order being no. 27 dated 25th November, 2024 passed by the learned Judge, Bench-X, City Civil Court at Calcutta in Title Suit No. 472 of 2022.

By the order impugned the application under Order 1 Rule 10(2) of the Code of Civil Procedure filed by the opposite party no.2 herein stood allowed.

Mr. Ghosh, learned advocate appearing for the petitioner submits that though the opposite party no.2 herein produced some documents recording the name of the husband of the petitioner herein as the father of the opposite party no.2 but the opposite party no.2 herein has failed to satisfy the case of adoption even prima facie, before the learned trial judge.

Learned advocate for the opposite party no.2 submits that several documents were filed and produced before the learned trial judge in support of his claim that he was the adopted son of the husband of the petitioner herein. The opposite party no.1 also supports the addition of the opposite party no.2 as a party defendant in the partition suit.

After going through the application for addition of party, this Court finds that the opposite party no.2 herein has sought to make out a case that the husband of the petitioner herein is the adoptive father of the opposite party no.2 herein.

After going through the said application this Court finds that neither the names of the biological parents of the opposite party no.2 nor the date or the manner of such adoption has been stated in the said application. As rightly argued by Mr. Ghosh, the Aadhar card, Ration card and school identity card were issued based on the declaration made by the opposite party no.2 herein and therefore, the same cannot prove the fact, even prima facie, that the opposite party no.2 is the adopted son of the husband of the petitioner herein. No specific particulars in support of the alleged adoption has been stated in the said application. This Court is, therefore of the considered view that the impugned order adding the opposite party no.2 as a party defendant calls for interference. For such reason, the order impugned dated 25th November, 2024 stands set aside.

However, this order shall not prevent the opposite party no.2 herein from filing an appropriate application giving specific particulars in that regard. If the same is filed,

the learned trial judge shall consider the same and dispose of by passing a reasoned order after giving an opportunity of hearing to the parties.

With the above observations and directions, C.O. 469 of 2025 stands disposed of.

No order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Hiranmay Bhattacharyya, J.)