

A-1353
20.08.2025
Court No.6
BP

C.O. 1842 of 2025

Bikash Paul
-versus-
Moumita Paul (Dey) & Ors.

Mr. Subhas Chandra Atha
Ms. Payel Paramanik
... for the petitioner

Mr. Soumik Ganguli
Ms. Priti Barman
..for the plaintiff/opposite party no.1

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 defendant and is directed against an order being no.14 dated 28th March, 2025 passed by the learned Civil Judge (Senior Division), Bankura in Title Suit No. 311 of 2024.

By the order impugned the prayer for permission to complete the unfinished construction stood rejected.

The opposite party no.1 herein filed a suit for partition and for other consequential reliefs in respect of dag nos. 548 and 542/1816. The petitioner herein filed an application under Section 151 of the Code of Civil procedure praying for permission to complete the unfinished construction on the suit property. Such application stood rejected by the impugned order.

Mr. Atha, learned advocate appearing for the petitioner submits that the construction was made up to the roof level and the petitioner is a co-sharer in respect of the suit property and, therefore, should be permitted to complete the unfinished construction.

Mr. Ganguly, learned advocate appearing for the plaintiff/opposite party no.1 seriously opposes the prayer for permission to complete the unfinished construction. He submits that the petitioner is not the absolute owner of the suit property and the opposite party no.1 is also a co-sharer and the petitioner cannot be allowed to raise construction.

Heard the learned advocates for the respective parties and perused the materials placed.

Record reveals that a Commissioner was appointed for holding inspection of the disputed suit plot. From the Commissioner's report it appears that a newly made construction was made up to the ceiling level and the centering was completed and some iron rods and wooden pieces (Pata) were lying there for construction of the roof of the first floor of the house of defendant no.1. It appears from the application that the petitioner has prayed for permission to construct the roof of the first floor and to make it a habitable one. Considering the fact that the construction was raised up to the ceiling level, this Court is inclined to allow the prayer of the petitioner to complete

the unfinished construction and to make it a habitable one.

For the reasons as aforesaid, the order impugned stands set aside.

The petitioner shall be permitted to complete the unfinished construction so as to make the same a habitable one. However, the petitioner shall not be entitled to claim any equity in the suit for raising such construction on the suit property.

With the above observations, C.O. 1842 of 2025 stands disposed of.

There shall be, however, 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.)