

28. 25.06.2025
Court No.6
(Tanmoy)

CO/2163/2025

**BARUN KUMAR BHATTA
VS
SRI GORACHAND BHATTA AND ORS.**

Mr. Shuvanil Chakraborty
Mr. Ratul Das

... for the petitioners.

1. This application under Article 227 of the Constitution of India is at the instance of the plaintiffs and is directed against an order no.360 dated 7th of May, 2025, passed by the learned Civil Judge (Senior Division), 1st Court, Tamluk, Purba Medinipur, in Title Suit No. 68/1984.

2. By the order impugned an order of stay of all further proceedings of the final decree proceedings of a partition suit was passed as the defendants have prayed for passing a separate preliminary decree in their favour.

3. Challenging the same, the plaintiff has approached this Court.

4. A preliminary decree was passed sometime in the year 1991. Thereafter, the Commissioner's report was accepted on 3rd of May, 1996. During the pendency of the final decree proceedings the defendant nos. 15 series/opposite party nos. 54-58 had filed an application for passing a separate preliminary decree.

5. The learned Advocate for the petitioner submits that the defendants have not challenged the

preliminary decree and, therefore, there is no scope to adjudicate the application for passing of separate preliminary decree.

6. Order XX, Rule 18 sub-rule (2) states that *“where the Court passes a decree for partition of property or for the separate possession of a share therein, then if and insofar as such decree relates to any other immovable property or to movable property, the Court may, if the partition or separation cannot be conveniently made without further inquiry, pass a preliminary decree declaring the rights of the several parties, interested in the property and giving such further directions as may be required.”*

7. Thus, Order XX, Rule 18 sub-rule (2) provides for a further inquiry to be made even after the passing of the preliminary decree.

8. This Court is of the view that the learned Trial Judge was right in keeping the final decree proceedings in the partition suit in abeyance till the disposal of the application for separate preliminary decree as such application should be adjudicated prior to passing of the final decree.

9. For such reason, this Court is not inclined to interfere with the impugned order.

10. The learned Trial Judge is directed to make an endeavour to dispose of the application filed by the opposite party nos. 54-58 herein, as expeditiously as possible without granting any unnecessary adjournment to either of the parties.

11. Learned Advocate-on-Record for the petitioner is directed to serve a copy of this order along with this application upon the opposite party nos. 54-58 or upon the learned Advocates representing such opposite parties before the learned Trial Judge.

12. With the above observations, the civil revisional application being CO/2163/2025 stands disposed of.

13. Urgent Photostat certified copy of this order, if applied for, be made available to the parties upon compliance with all requisite formalities.

(HIRANMAY BHATTACHARYYA, J.)