

03.12.2025
Ct. No. 06
Item 55
Cp

C.O. No. 2412 of 2025

Md. Emdadul Hoque
Vs.
Kazi Kariul Karim & Ors.

Mr. Dhananjay Banerjee
Mr. Biswajit Sarkar

.....for the petitioner.

1. The petitioner has challenged an order dated June 19, 2025, passed by the learned Civil Judge (Senior Division), Kandi, Murshidabad in Partition Suit No.160 of 2021. By the order impugned, the learned court allowed the added defendant no. 5 (who had purchased the share of the defendant nos. 1 and 2) to carry out repairs to make the ground floor habitable.
2. The petitioner has challenged this order on the ground that the defendant nos. 1 and 2 had sought for permission to construct over and above the said ground floor, but such permission was denied. The defendant no. 5 was claiming through the said defendants and the prayer for construction could not have been allowed on the self-same premises which had once been rejected by the court.
3. I find from the order that, the defendant no. 5 had acquired the property by virtue of a deed of exchange

from the defendant nos. 1 and 2. The shares of the defendant nos. 1 and 2 are not in dispute. The defendant nos. 1 and 2 filed an application for permission to construct the first floor over the ground floor and the nature of construction was extensive. The said prayer was rejected

4. The defendant No. 5 on the other hand wanted to place a shutter and the doors so that the ground floor could be used by his family. The family consisted of mother, wife, minor daughter and son. It was stated that, without the doors the premises was not habitable. An undertaking was also given that the defendant no. 5 will not claim any equity. The court allowed the application on the ground that construction to the extent of making the ground floor habitable shall be allowed. The court specifically noted that the plaintiff was already enjoying the premises upon making substantial construction. This court does not find any reason to interfere with the order impugned.
5. The construction shall be restricted to the extent directed by the court, i.e., to make the ground floor habitable as has been specified in the application, i.e., changing the plaster, fixing a shutter and doors.
6. Accordingly the application is dismissed.
7. However, it is made clear that the defendant no. 5 shall not claim any equity with regard to the

construction and the construction is subject to the result of the suit and the final decree.

8. There shall be no order as to costs. Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)