

Court No. 6
(265719)

04.09.2025
(AD 35)
(S. Banerjee)

CO 3284 of 2025

Smt. Shyamali Rani Mridha & Ors.
Vs.
Sri Haridas Mridha & Ors.

Mr. Partha Pratim Roy
Mr. Sayantan Hazra

... for the petitioners

This application under Article 227 of the Constitution of India is at the instance of the plaintiffs and is directed against an order being no. 34 dated August 13, 2025 passed by the learned Civil Judge (Sr. Division) at Raiganj, Uttar Dinajpur in Partition Suit No. 42 of 2021. By the order impugned, the application under Order 1 Rule 10(2) read with Section 151 of the Civil Procedure Code, stood rejected.

Mr. Roy, learned advocate appearing for the petitioners submits that the names of the predecessor-in-interest of the persons who have been sought to be added as defendants in the instant suit for partition, were recorded in the record of rights. He submits that in view thereof, the said persons are necessary parties in the suit for partition.

After going through the plaint of the instant suit for partition, this court finds that it has been

specifically stated in paragraph 8 of the plaint that at the relevant point of time Asim Kumar Adhikary, Bhutu Kumar Adhikary, Goutam Kumar Adhikary and Buluya Sarkar had no share in the suit plots and the entire suit property is being possessed by the plaintiffs and all the defendants in ejmali.

The application for addition of party was filed after the evidence of P.W.-1

After going through the application under Order 1 Rule 10(2) of the Civil Procedure Code this court finds that the petitioner has sought to add the heirs of the aforesaid Adhikaries and Buluya Sarkar as party defendants. In the said application it has only been stated that since the name of the persons sought to be added have been recorded in the record of rights they are necessary parties in the suit for partition.

It is well-settled that mutation neither confers any title to the property, nor can it extinguish the right of a person in the property. Record of rights is only a document of possession and not title. Merely because of the fact that the names of certain persons have been recorded in the record of rights, does not ipso facto give rise to the conclusion that such persons have unity of title and possession with that of the parties in the suit for partition.

It is well-settled that only the person who have unity of title possession in respect of the properties are necessary parties in the suit for partition.

In view of the specific case made out in the plaint, that the predecessor-in-interest of the persons sought to be added do not have any share in the suit property, this court is of the considered view that the persons who have been sought to be added as defendants are neither necessary parties nor their presence is necessary for deciding the instant suit for partition.

This court, accordingly, holds that the ultimate conclusion arrived at by the learned trial judge rejecting the application under Order 1 Rule 10(2) of the Civil Procedure Code does not warrant interference under Article 227 of the Constitution of India.

Accordingly, CO 3284 of 2025 stands dismissed.

(Hiranmay Bhattacharyya, J.)