

Court No. 6
(265719)

24.09.2025
(AD 41)
(S. Banerjee)

CO 3547 of 2025

Himadri Jyoti
Vs.
Sanat Kumar Pain & Anr.

Mr. Ayan Banerjee
Mr. Ajeyo Chowdhury

...for the petitioner

On the prayer of the learned advocate-on-record of the petitioner, leave is granted to amend the cause-title of the civil revision application here and now.

This application under Article 227 of the Constitution of India is at the instance of the 2nd defendant and is directed against an order being no. 23 dated August 7, 2025 passed by the learned Civil Judge (Jr. Division) Chandernagore, Hooghly in Title Suit No. 210 of 2024. By the order impugned, the application under Section 10 of the Civil Procedure Code, stood rejected.

Mr. Banerjee, learned advocate appearing for the petitioner submits that since a previous suit for partition between the self-same parties is pending, the subsequent suit should be stayed and for such reason the petitioner filed an application under Section 10 of the Civil Procedure Code. He submits

that the subject-matter of both the suits are same and the parties are more or less are same and the issues are also same and identical. He, therefore, submits that the subsequent suit is required to be stayed under Section 10 of the Civil Procedure Code.

A previous suit being Title Suit No. 236 of 2017 praying for a decree for partition and for other consequential reliefs, is pending before the learned Civil Judge (Sr. Division), Chandernagore.

The opposite parties filed a suit being TS 210 of 2024 for declaration that the opposite parties have right, title, interest and possession over Kha schedule property by virtue of the settlement deed being no. 1278/67 and family mutual arrangement dated August 6, 1996 and for declaration that the deed of gift being Gift Deed No. 4945/21 dated 10.12.21 is illegal, invalid, void, ab initio and not binding upon the opposite parties and for a further declaration that the petitioners have no right to claim/encroach kha schedule property on the basis of wrong and erroneous LR Record of Rights and for permanent injunction.

After going through the plaint of TS 210 of 2024, this court finds that the subject-matter of the second suit relates to kha schedule property and the deed of gift, the settlement deed and the mutual family

arrangement. The deed of gift is not under challenge in the suit for partition. The parties of both the suits are also not the same as some of the parties of the partition suit are not parties in the suit for declaration and permanent injunction.

Mr. Banerjee submits that the issues have already been framed in the suit for partition and the issues in the declaratory suit is yet to be framed.

However, considering the scope of both the suits this court finds that the earlier suit for partition is not dependent on the fate of the suit for declaration filed by the opposite parties herein. Only a portion of the suit property involved in the partition suit forms the subject matter of the subsequent declaratory suit. The plaintiffs of the partition suit are also not the parties in the subsequent suit.

The learned trial judge assigned cogent reasons for rejecting the application under Section 10 of the Civil Procedure Code. For such reason this court is not inclined to interfere with the order impugned.

Accordingly, CO 3547 of 2025 stands dismissed.

(Hiranmay Bhattacharyya, J.)