

Item- 15-12-2025  
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**CO 3941 of 2025**

Ajoy Kumar Bhattacharya  
Versus  
Tapash Bhattacharyya & Ors.

Mr. Partha Pratim Roy  
Mr. Samrat Chakraborty  
...for the petitioner

1. The petitioner has challenged the order dated September 2, 2025, passed by the learned Civil Judge (Senior Division), Lalbagh, Murshidabad in Partition Suit No. 535 of 2025. By the impugned order, the learned court directed the Chairman, Murshidabad Municipality to initiate appropriate legal action against the defendant no.2, for manufacturing and using a forged warishian certificate (heirship certificate) purported to have been issued by the Municipality. The Chairman was further directed to consider initiation of appropriate action against both the plaintiffs namely, Tapas Bhattacharjee and Goutam Bhattacharjee for their fraudulent act in procuring another warishan certificate. The court fixed November 17, 2025, for the report from the Chairman of the Murshidabad Municipality.

2. Affidavit of service filed in Court is taken on record.

3. Despite service, none appears on behalf of the opposite parties.

4. The case made out by the plaintiffs was that they were in possession with the defendants over the suit property. The plaintiffs while facing difficulty in enjoying their portion in the suit property approached the defendants to effect partition of

the suit property, but the defendants did not agree.

5. The property belonged to one Mr. Subrata Bhattacharya, since deceased, who died intestate, leaving behind the plaintiffs and the defendant Nos.1 and 2. He died a bachelor. The defendant no.3 claims to be a purchaser of the un-partitioned property from one of the heirs.

6. During the pendency of the suit, the court came across two warishan certificates, both issued by the Chairman of the Municipality on the same date. In one of such certificates, the petitioner/defendants no.2 was mentioned as the only heir and legal representative of deceased Subrata Bhattacharya and in the other warrishan certificate, the plaintiffs were mentioned as the legal heirs of the deceased. Thus, the learned court called upon the Chairman of the Municipality to file a report as to which of the two certificates was correct and whether such certificates had at all been issued by the Municipality.

7. The Chairman filed a report, denying the issuance of the heirship certificate in favour of the petitioner and also stated that the certificate issued in favour of the plaintiffs was fraudulently obtained.

8. Upon perusal of such report of the Chairman, the learned Court directed the Chairman to initiate appropriate legal proceeding against the defendant no.2/petitioner and also consider whether the legal proceeding should be initiated against the plaintiffs on the ground that, the certificates were fraudulently obtained.

9. This Court finds that the report of the Chairman, by which legal action was directed to be taken against the petitioner, had never been served upon the petitioner.

10. The order has far-reaching consequences. The petitioner may be subjected to criminal proceedings without getting an opportunity to meet the contentions of the Chairman in the report. The law is well-settled that, if a report goes against a party, the said party is entitled to file objection to the report or deal with the contents of the report before any order can be passed thereon.

11. Non-supply of the report amounts to violation of the principles of natural justice. Moreover, the report of the Chairman which was called for by the court had various factual aspects. The party against whom such report was being used for initiation of any legal proceeding, had the right to cross-examine the Chairman on such point.

12. Under such circumstances, the application is disposed of by setting aside the order dated September 22, 2025, insofar as, and direction in respect of the petitioner is concerned. The learned Trial Judge shall allow the petitioner to file an objection to the report of the Chairman, Murshidabad Municipality and to cross-examine the Chairman on the points stated in the report. Thereafter, the learned Trial Court will pass necessary orders.

13. It is submitted that the plaintiffs have already filed an application for withdrawal of the suit. The court shall decide the said application on its own merits independent of the direction made hereinabove.

14. C.O. 3941 of 2025 is, accordingly, disposed of.

15. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

**(Shampa Sarkar, J.)**