

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

**FA 4 of 2025
with
IA No.: CAN 1 of 2024**

**Sri Pijush Kanti Sarkar
Vs.
Ananta Sarkar (expired), Anjali Sarkar & Ors.**

For the respondent no.19: Mr. Ved Rai, Advocate
Mr. Vivek Saha, Advocate

Heard & Judgment on : November 26, 2025

DEBANGSU BASAK, J.:-

1. None appears for the appellant.
2. None appeared for the appellant on November 25, 2025 also.
3. Learned Advocate appearing for the respondent no.19 submits that, the appellant is unrepresented on diverse dates.
4. Learned Advocate appearing for the respondent no.19 draws the attention of the Court to the impugned judgment and order. He submits that, a suit for partition was dismissed by the impugned judgment and order. He points out that, the appellant as plaintiff claimed himself to be the adopted child of late Sashimohan Sarkar and Bhagyamoyee Sarkar. He

points out that, Sashimohan Sarkar expired on May 14, 1971 whereas the appellant as plaintiff claimed adoption on January 27, 1982. Consequently, he submits that, the claim of the appellant as adopted child of Sashimohan Sarkar and Bhagyamoyee Sarkar failed. Consequently, there is no error in the impugned judgment and order requiring an interference.

5. We find from the records that, the appellant as plaintiff claimed partition of an immovable property on the basis of adoption and inheritance. The appellant claims himself to be the adopted child of Sashimohan Sarkar and Bhagyamoyee Sarkar and, therefore, entitled to inherit their estate. On such basis, the appellant claimed partition of the estate of the two deceased.
6. In support of the contention that the appellant was the adopted son of Sashimohan Sarkar (since deceased) and Bhagyamoyee Sarkar (since deceased), an alleged deed of adoption dated January 27, 1982 was relied upon. At the trial, death certificate of Sashimohan Sarkar expiring on May 14, 1971 was introduced in evidence.
7. Learned Trial Judge framed six issues for the trial. Relevant issues are issue nos.3 and 4 which are as follows:

“3. Is the plaintiff the adopted son of Sashimohan Sarkar and Bhagyamoyee Sarkar?

4. Does the plaintiff acquire right title and interest over the B scheduled property by way of inheritance?”

8. So far as issue nos.3 and 4 are concerned, learned Trial Judge considered the same together. Learned Trial Judge held that, since one of the two persons claimed to take the appellant in adoption expired prior to the date of the adoption, the claim of adoption was not proved. In such circumstances, learned Trial Judge proceeded to dismiss the suit.
9. We concur with the view expressed by the learned Trial Judge in the impugned judgment and order.
10. We find no merit in the present appeal.
11. **FA 4 of 2025** and **IA No.: CAN 1 of 2024** are **dismissed** without any order as to costs.

(Debangsu Basak, J.)

12. I agree.

(Md. Shabbar Rashidi, J.)