

Calcutta High Court
In the Circuit Bench at Jalpaiguri
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE

Present:

The Hon'ble Justice Debangsu Basak

C.O. 205 of 2025

Sri Sukumar Ghosh & Ors.
vs.
Smt. Sanchayita Ghosh & Ors.

For the Petitioners : Mr. Sandip Mandal, Advocate
Mr. Amit Saha, Advocate
Mr. Shivam Jaiswal, Advocate

For the Opposite parties : Dr. Navin Barik, Advocate
Ms. Esha Acharya, Advocate
Mr. Rimik Chakraborty, Advocate

Heard and Judgment on: 24.11.2025

DEBANGSU BASAK, J.:-

1. Revisional application is directed against order dated September 23, 2025 passed in Misc. Appeal No.4 of 2024.
2. In a suit for dissolution of partnership firm and for accounts an application under Section 8 of the Arbitration and Conciliation Act, 1996 was rejected by the learned Trial Judge.

3. Aggrieved by such decision, an appeal was filed, being Misc. Appeal No.4 of 2024. By the impugned order, learned Appeal Court framed two issues namely, maintainability of the appeal and, the sufficiency of the impugned order.
4. On the score of maintainability, learned Appeal Court found the appeal not to be maintainable as, according to the Appeal Court, he was the Additional District Judge and therefore, not the principal Court within the meaning of the Act of 1996. Learned Appeal Court thereafter, did not enter into the merits of the controversy.
5. On behalf of the opposite party, reliance is placed on ***AIR 2016 Cal 236 (West Bengal Housing Infrastructure Development Corporation vs. M/s. Impression)*** for the proposition that, the learned Additional District Judge was vested with requisite jurisdiction to hear the appeal.
6. On merits, learned advocate appearing for the opposite parties also submits that, there was reconstitution of the partnership firm in 2014 by a deed. Such deed of partnership did not contain any Arbitration Clause. Suit for dissolution of partnership and for accounts is on the basis of the 2014 deed.
7. Learned advocate appearing for the petitioners submits that, firm was constituted in 2007 and reconstituted in 2014. Since, the original constitution contained an Arbitration clause, the subsequent

reconstitution in 2014 without the Arbitration clause is of no consequence. He relies upon unreported decision of the co-ordinate Bench dated September 5, 2024 passed in **AP/77/2024 (Tata Communications Limited vs. Rudrapriya Constructions LLP and Anr.)**.

8. In my view, learned Appeal Court, acted with material irregularity in failing to exercise jurisdiction vested upon it by law. Special Bench of this Hon'ble Court in **West Bengal Housing Infrastructure Development Corporation vs. M/s. Impression (supra)** is of the view:-

“69. We have carefully examined the contention of the respondent, but we are unable to accept the same. We are of the view that the aforesaid decisions of the Apex Court have not taken any contrary view to almost an unanimous view of all the Courts on the question of jurisdiction of the learned Additional District Judges and on the effect of transfer (assignment) of cases to them by the learned District Judge under Section 8(2) of the Bengal, Agra and Assam Civil Courts Act or under the corresponding or analogous provisions of sister enactments. The transfer or assignment in all these cases may well be brought under the aforesaid Section 8(2) of the Bengal, Agra and Assam Civil Courts Act, or, in the case of sister enactments, under the corresponding or analogous provisions thereof,

though Section 24 of the Code of Civil Procedure also has sometimes been referred to in this connection.

70. *There is no dispute here that, under the aforesaid sections (Sections 8(2) and 24) the learned District Judge has the power to transfer or assign cases, pending before him, to an Additional District Judge, provided the latter is a competent court for the purpose and provided also there is nothing to the contrary in the particular statute, under which the particular action has been initiated. In either case, then, the only point will be whether the learned Additional District Judge is a competent court for the purpose of the particular case and whether there is anything in the particular statute, under which the proceeding in question has been taken or started, to prohibit or preclude such transfer of assignment and that question must be decided in the light of the Government Notification of his appointment and the relevant sections of the Bengal, Agra and Assam Civil Courts Act, namely, Sections 4, 6 and 8, and the aforesaid particular statute.*

71. *It is convenient to state here that, under Section 8(2) of the Bengal, Agra and Assam Civil Courts Act, or the corresponding provisions of sister enactments, as alluded to above, the transfer or assignment of business by the learned District Judge to the Additional Judges conferred with it the necessary power or*

jurisdiction to deal with the same. It is to be noted also that the Additional District Judges have always been taken to be “Additional Judges” under Section 8(2) of the Bengal, Agra and Assam Civil Courts Act and, in all the cases, cited above, that position has been accepted and the matter has been dealt with on that footing. Clearly, also, that view is entirely right.

72. *We are, therefore, of the view that the Court of the Additional District Judge is also the principal Civil Court in the District and accept the view taken by the Hon’ble Division Bench in West Bengal Housing Infrastructure Development Corporation Limited v. Impression. The view taken by National Highway Authority of India v. B. Seenaiiah & Company (Projects) Limited would make the ‘District Judge’ a persona designata which has never been the intention of the legislature.”*

9. The impugned decision of the learned Appeal Court that it lacks jurisdiction, as returned by the impugned order, is contrary to the ratio of **West Bengal Housing Infrastructure Development Corporation vs. M/s Impression (supra)**. Consequently, the impugned order is set aside.
10. So far as the merits are concerned, points raised with regard thereto are kept open. Since, I minded to keep such point open, I am not dealing with the ratio of **Tata Communications Limited (supra)**.

11. Misc. Appeal No.4 of 2024 is remanded to the learned Additional District Judge, 1st Court, Siliguri, Darjeeling, with a request to hear and dispose of Misc. Appeal No. 4 of 2024 as expeditiously as possible.
12. **C.O. 205 of 2025** is **disposed of** accordingly.

(Debangsu Basak, J.)