

CO. 547 of 2026

25.03.26
D/L
Sl-58
Ct. 06
(Samar)

Volodymyr Sabadyr & Ors
V.
Golam Mohammad @ Golam Sheikh & Ors.

Mr. Parth Pratim Ray,
Mr. Anirban Das
... for the petitioners.
Mr. Dyutiman Banerjee,
Mr. Debjit Dutta,
.... for the Opposite Parties.

1. This revisional application is directed against an order dated January 15, 2026 passed by the learned Civil Judge (Senior Division), 1st Court at Krishnanagar, Nadia in Title Suit No. 444 of 2025 whereby the petitioners' application under Order 23 Rule 3 of the Code of Civil Procedure, 1908 praying for a decree in terms of a solenama (compromise agreement) upon treating the solenama annexed thereto as part of the final decree has been rejected.
2. It is the petitioners' case that on the basis of the said solenama, another suit for petition being Title Suit No. 322 of 2025 pending before the same learned Court at the instance of the opposite parties herein had been withdrawn by the opposite parties unconditionally.
3. Such application of the petitioner has been rejected by the order impugned by observing that since the subject suit was one for partition, the court would have to ascertain as to whether all the necessary

co-owners/co-shares had been brought into the common hotchpotch or not and as to whether the parties had supporting title related documents or not.

4. Mr. Roy, learned advocate appearing for the petitioners' submits that the learned Trial Court has rejected the petitioners' application applying the wrong principles of law. He submits that on an application under Order 23 Rule 3 of the Code of Civil Procedure, all that the court is required to see is as to whether the agreement is lawful or not and as to whether the parties to the proceedings have genuinely come up before the court with the agreement or not.
5. Learned advocate appearing for the opposite parties accepts the submissions made by Mr. Roy and seeks to impeach the order impugned on the same grounds.
6. Having heard the learned advocate appearing for the petitioner and having considered the material on record, this court is of the view that the order impugned cannot be sustained. The learned Court could not have outrightly rejected the application for decree on compromise by merely observing that *"Since, this is a suit for partition, this Court will have to ascertain as to whether all the necessary co-owners/co-sharers have been brought into common hotchpot or not because in an unpartitioned property,*

every co-owner/co-sharer is entitled to every inch of such property. Therefore, without perusing the plot information and the supporting title related document of the parties, it is not possible to pass a blanket order of solenama.”

7. Whenever an application for decree of compromise is filed, it is the duty of the court is to see as to whether terms of the compromise are lawful or not in terms of the provisions of Order 23 Rule 3 of the Code. The petition itself could not have been rejected without first coming to the conclusion that the terms of the compromise were unlawful and without assigning reasons as to why were (are) the terms unlawful.
8. It is settled law that while dealing with a petition for decreeing a suit on compromise, the Court is required to apply its judicial mind to satisfy itself that the agreement is lawful before recording the same. Such inquiry has not been done by the learned Trial Court and the petition itself has been rejected. The order impugned is therefore set aside.
9. The learned Trial Court shall consider the application for decreeing the suit on compromise afresh in the light on the provisions of Order 23 Rule 3 of the Code of Civil Procedure and the guiding precedents of the Hon’ble Supreme Court on the point.
10. The learned Trial Court is requested to

dispose of said application, in accordance with law, as expeditiously as possible and preferably within a period of one month from the next date fixed without granting any unnecessary adjournment to either of the parties.

11. With the above observations, CO. 547 of 2026 stands disposed of.
12. Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities

(Om Narayan Rai, J.)