

23.03.2026
(D/L-44 & 45)
Ct.-30
(Nandita)

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION**

C.O. 392 of 2024

With

C.O. 2603 of 2023

Sunil Anchalia

-Vs-

Sundari Devi Anchalia & Ors.

Mr. Gopal Chandra Ghosh, Sr. Adv,
Mr. Arif Ali,
Mr. Sarban Bhattacharya,
Mr. Rajkrishna Mondal,
Ms. Suravi Ghosh,
Ms. S. Saha

.... For the Petitioner

Mr. Arindam Chandra,
Ms. Arunima Laha,
Mr. Atish Ghosh,
Mr. Abir Lal Chakraborty,
Ms. Antara Dey,
Ms. Neha Gupta

...For the Opposite Party Nos.
1,3,4,5, & 6

In Re: C.O. 392 of 2024

1. The revision has been preferred against an order dated 22nd November, 2023 passed by learned Civil Judge (Senior Division) at Suri, Birbhum in Title Suit No. 128 of 2022.
2. Vide the impugned order, the Trial Court fixing the Title Suit for hearing under Order X Rule 4 of Civil Procedure Code, proceeded to pass an order as follows:-

In the instant case, when the court as per the provision of order X rule 4 of the Code of Civil Procedure orally examined the plaintiff and with document of Title Suit No.

196 of 2001 asked to answer whether he had knowledge about the said suit and the order passed thereunder, **the plaintiff instead of answering such material question, took adjournment and thereafter never turned up before the court for filing affidavit.** Therefore, a presumption can be drawn against the plaintiff that he is well aware of the fact about the Title Suit No. 196 of 2001 and the order passed thereunder whereby aforesaid observation regarding the 'B' and 'C' schedule property has been made by the court. Therefore, 'B' and 'C' schedule property is not stands as joint property of the parties and cannot be the subject matter of a suit for partition and if such schedule property is kept as subject matter, the same may cause hardship to the defendants in dealing with said property. But so far the 'A' schedule property is concerned as admitted by both the parties as joint property, has to be kept as subject matter of the suit of partition.

Hence, it is,

ORDERED

That in view of provision of order X rule 4 of CPC, let 'B' and 'C' schedule property be struck out from the schedule of the plaint and 'A' schedule property only be

kept as subject matter of the suit for partition.

*Fix **14.12.2023** for framing of issues.*

3. The impugned order has been passed invoking the provisions of **Order X Rule 4(2) of CPC**.
4. Considering the same and in the interest of justice the civil revision is disposed of on setting aside the impugned order and granting liberty to the petitioner to appear before the Trial Court and comply with the direction of the Court to file affidavit.
5. The Court shall granting such opportunity, then proceed to hear the matter afresh and to decide the same in accordance with law preferably within two months from the date of this order.
6. C.O. 392 of 2024 is thus allowed.

In Re: C.O. 2603 of 2023

7. The revisional application has been preferred challenging the order dated 6th May, 2023 passed by learned Civil Judge (Senior Division) at Suri, Birbhum in Title Suit No. 128 of 2022 which is connected to and prior to the impugned Order in C.O. 392 of 2024.
8. In view of the order passed in C.O. 392 of 2024, the present revisional application being a connected matter, also stands disposed of.
9. Urgent Photostat Certified Copy of this order, if applied for, be given to the parties on payment of requisite fees.

(Shampa Dutt (Paul), J.)