

**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 Chaitali Chatterjee (Das)

**FA 2 of 2026
(FAT 33 of 2025)
with
IA No.: CAN 1 of 2026**

Sri Sankar Chakraborty & Ors.

Vs.

Smt. Maya Bhattacharjee & Ors.

For the appellants : Mr. Kalipada Das, Advocate

Heard & Judgment on : **January 13, 2026**

DEBANGSU BASAK, J.:-

1. The first appeal is directed against the judgment and the preliminary decree dated August 14, 2025 passed in Partition Suit No.11 of 2022.
2. Certified copy of the decree filed in Court be taken on record.
3. The report of the department that the appeal was not accompanied by the certified copy of the impugned decree stands cured.

4. Appeal is on the basis that, the deceased father of the parties to the suit was not the owner of the suit property. In support of such contention, initially it is submitted that, the suit property involved was vested with the State. Later, it is submitted that, the record of rights of the suit property stood in the name of the deceased father of the parties to the suit.
5. A suit for partition was filed in respect of partition of immovable property. The parties to the suit are children of the deceased father.
6. By the impugned judgment, learned Trial Judge declared the shares amongst the respective parties to the suit. Nothing is placed before us to suggest that the shares declared are incorrect. In fact, it is quite to the contrary. There are six parties to the suit who are entitled to 1/6th share each in the suit property. Learned Trial Judge declared such share correctly.
7. So far title is concerned, no person set up title adverse to the father of the parties. Suit property stood recorded in the name of the deceased father of the parties. There is no material on record to suggest a title contrary to that of the deceased father of the parties to the suit property. We, therefore, do not find any ground to interfere with the impugned judgment and decree on such scores. The same is affirmed.
8. By the impugned judgment and decree, the learned Trial Judge directed the parties to amicably partition the suit property in accordance with the preliminary decree within 2(two) months from passing of the judgment;

failing which the parties were granted liberty to obtain partition of the suit property by appointment of learned survey passed Commissioner.

9. The appeal is an attempt by the appellants to deny partition and keep the suit for partition pending. Such course of action should not be permitted.
10. The time to partition the suit property amicably between the parties is extended for a period of 2(two) months from date.
11. **FA 2 of 2026 (FAT 33 of 2025)** along with **IA No.: CAN 1 of 2026** is **disposed of** without any order as to costs.

(Debangsu Basak, J.)

12. I agree.

(Chaitali Chatterjee (Das), J.)