

APDT/21/2025
IA No.GA/2/2026

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

RABINDRA KUMAR MEHRA

-VERSUS-

TARA CHAND MEHRA AND ORS.

BEFORE:

The Hon'ble JUSTICE DEBANGSU BASAK

-AND-

The Hon'ble JUSTICE MD. SHABBAR RASHIDI

Date: 18th May, 2026

Appearance:

Mr. Abhrajit Mitra, Sr. Adv.

Mr. Satadeep Bhattacharyya, Adv.

Ms. Sriparna Mitra, Adv.

Ms. Sonia Sharma, Adv.

...for the appellants.

Mr. Lalratan Mondal, Adv.

...for the respondent no.1.

Mr. Sankarsan Sarkar, Adv.

Mr. Aditya Kanodia, Adv.

Ms. Shreya Trivedi, Adv.

...for the respondent no.2.

Mr. Aniruddha Chatterjee, Sr. Adv.

Mr. Rahul Karmakar, Adv.

Ms. Papiya Roy, Adv.

...for the respondent nos.3 to 5.

Mr. Rajib Roy, Adv.

...for the respondent nos.6 & 7.

The Court :- Appeal is directed against a decree of dismissal dated June 19, 2025 passed in a suit claiming partition of an immovable property.

By the impugned decree, learned Trial Judge rejected the prayers of the plaintiffs/appellant to the suit for partition. Learned Single Judge also

dismissed the counter-claim of the defendant no.3 series for the repair claimed to be undertaken in respect of the suit property.

After hearing the learned counsel for the respective parties before us, we find that, there are some persons who may claim right, title and interest in respect of the properties involved in the suit for partition. Such persons are not parties to the suit. We hasten to add that we are not returning any conclusive finding as to the entitlement of such persons in the suit properties. We leave such question open to be decided since we are remanding the suit to the learned Single Judge for fresh trial.

The list of persons who may claim right, title and interest in respect of the property involved in the suit, are now made available to the learned Advocate-on-record for the appellant.

Since, the suit was decided without all parties who may claim right, title and interest in respect of the suit for partition were not parties to the suit, we deem it appropriate to set aside the impugned judgment and order and remand the suit for fresh trial.

All points raised by the respective parties are kept open.

At this stage, learned counsels for the appearing parties consent that the persons named in the e-mail dated May 17, 2026 of the Advocate for the respondent nos. 3 to 5 be added as party defendants to the suit.

In view of the consent so given, without returning any finding as to their entitlement, if any, in respect of the suit property, we add such persons as party defendants to the suit.

In view of the addition of the parties as directed, the plaintiff is granted liberty to file an application for amendment of the pleadings before the

learned Single Judge within four weeks from date. Upon such application being made, learned Single Judge will dispose of the same in accordance with law.

In view of the impugned decree being set aside, all orders that were subsisting till the date of the passing of the impugned decree are restored.

Since we did not enter into the respective contentions of the parties, save to the limited extent of assessing the validity of the decree passed, we clarify that points raised by the parties on the application under Order XLI Rule 27 of the Code of Civil Procedure, 1908 filed by the appellant are kept open.

APDT/21/2025, including all pending applications, are disposed of without any order as to costs.

(DEBANGSU BASAK, J.)

(MD. SHABBAR RASHIDI, J.)

A/s.