

MHAU100002502020



Reg Dkst/1/2020

**Hamiduddin Hafiz Qamaruddin
Vs. Mujiboddin Hafiz Qamroddin**

ORDER BELOW EXH-18

The judgment debtor no.3 has filed application to appoint the Court Commissioner for partition of suit party, wherein it is submitted that DH. no. 1 died and no legal heirs of DH. no. 1 are brought on record. Therefore, keeping the share of DH no. 1 effect the partition by appointing the Court commissioner.

02. It is further submitted that the present proceeding is filed on 20.02.2020. During the proceeding DH no.1 died on 20.01.2022. But the Lrs. of deceased DH no.1 not appeared. Therefore the delay caused to get the share of DH no.3. The share of DH no.1 be keeping secured the remaining property be partitioned between them by appointing Court commissioner. Hence, prayed to allow the application.

03. On the contrary judgment debtor has filed his say and opposed the application. Wherein it is submitted that the DH has not brought on record of Lrs. of DH and filed this application only to prolong the matter and harass the judgment debtor. The Lrs are relatives of DH. Therefore, prayed to reject the application with cost of Rs. 10,000/-.

04. Perused the application, say and record of case. Heard respective parties. The present application is filed by DH no.3 stating that the DH no. 1 is died. However, the DH is required to bring the Lrs of deceased. No steps taken by the DH to bring Lrs of DH no.1. From perusal of record shows that,

the suit was filed for partition and separate possession. The DH is required to take steps and proceed with the proceeding. Therefore, the reason mentioned in the application to keep secured share of DH no.1 and remaining property be partitioned is no satisfactory. Therefore, this application is not maintainable. Hence, I pass following order.

ORDER

1. The application is rejected.

Date- 30.09.2025

(G. D. Gurnule)
Jt. Civil Judge Jr. Div.
Khulabad.