

Order dated 27/01/2026

Today is fixed for hearing of petition for transposition of Defendant no. 2 as plaintiff.

Both parties file their respective hazira.

Application dated 16/01/2025 for transposition of Defendant no. 2 is not pressed by Ld. Advocate.

Now another pending application dated 16/01/2025 Under Order 11 Rule 12 C.P.C for discovery of documents filed by the plaintiffs, is taken up for hearing.

Heard submission of both sides.

Perused the instant application, plaint and W/S.

Order 11 Rule 12 C.P.C is provided for discovery of documents relevant to sort out the legal dispute between the parties.

The plaintiff in his application intends to discover the original deed of conveyance registered in the name of Late Samir Roy(erstwhile Defendant no.1) and Durgapada Roy(predecessor of the parties to the suit)

Record speaks that Samir Roy had expired unmarried leaving behind the plaintiffs and other defendants as his legal heirs.

So, it is apparent that the said Sale deed no. 165 of 1987 is the basis of this partition suit.

But the plaintiff, in his application for discovery no where stated that the original Sale deed is lying in the custody of defendants.

Then on which basis the Court shall direct discovery of the said deed.

Both the parties to the suit are legal heirs of Late Samir Kumar Roy and Durgapada Roy, and have their common interest in the suit property.

Thus, to prove the existence of suit property it is upon either of the parties to produce the original base deed of conveyance. Both the parties will get sufficient opportunities to bring that sale deed in evidence.

As of now, the instant application is found meritless, thus, rejected on contest without costs.

Fixing 11/02/2026 for P.H.

Judge ,
SCC, Sealdah