

**Title Suit 31/2015 (R-173/15)**

Order no. CD dated 27.07.2016

Today is fixed for passing judgement in admission. This is a suit for partition valued at Rs.50,00,000/-.

Before entering in to narrating the facts of the case and the contentions of the both sides, the decision of the Hon'ble High Court at Calcutta in C.O No. 2452 of 2016 passed on 05.07.2016 filed by the plaintiff by firisti before this court. In the said C.O Hon'ble High Court is pleased to hold that;

“In view thereof, let a preliminary decree be drawn up on the basis of the admission as recorded herein above in respect of the properties described in Schedules A and C”. Hon'ble High Court further observed that the petitioner Gautam Chakraborty “given up his claim over the B Schedule Property and is not claiming any relief in respect thereof.”

**Brief facts of this case:**

Plaintiff and the defendant are brother and sister. After demise of their parents, they became only legal heirs and representatives of their parents and the properties left by their parents devolved upon them and they became joint owners of those properties having equal shares, the Schedule A (Excluding Part II) and Schedule C Property herein and are to be called as “suit property” hereunder. During the pendency of the suit some portion of the Schedule A Property being the Part-II of the Schedule A property were sold by them jointly and no relief is sought over the said property. Plaintiff used to stay with his parents and family at 28A and 28B Pottery Road and the defendant stayed at her matrimonial home. After demise of the father of the parties, as their mother predecease their father, the parties had talk over partition but the same did not materialize to finality. There after dispute cropped amongst they and plaintiff alleged to have been prevented to enter into the premises no. 28A and 28B Pottery Road. Plaintiff apprehended a foul play from the side of the defendant. The dispute amongst got further aggravated and the instant suit was filed. Plaintiff by instant suit prayed for declaration of equal shares of the parties in respect to the suit

property, partition thereof and consequential relief.

After service of summons, defendant appeared and filed her Written Statement denying the contentions and allegations of the plaintiff. She alleged that the properties like shares, debentures, policies etc so mentioned in Schedule C have not been properly described in plaint and some of them have no existence. She also castigated some of the allegations as imaginary and made up with ill intuitions. She claiming herself as a renowned classical dancer stated that the plaintiff is residing elsewhere and did not look at his father and had no contact with his father. She also denied the allegation of threatening plaintiff. She prayed for dismissal of suit.

Before framing of issues, matter went to the Hon'ble High Court and the Honourable High Court at Calcutta in C.O. No. 2452 of 2016 declared for drawing up preliminary decree.

Therefore on the basis of the direction of the Hon'ble High Court, following order is passed.

Hence it is,

**Ordered**

that the suit is decreed on admission. It is hereby declared that the Plaintiff and the defendant no.1 have got undivided 1/2(half) share each/ 50% undivided share each in respect of the suit property as mentioned above on the body of the judgment.

The parties are directed to make partition of the suit property amicably in terms of the order of the Hon'ble High Court in C.O. No. 2452 of 2016 and the observation made hereinabove within six months from the date of the order, failing which either of the parties will be at liberty to make partition through Court as per law.

D/C by me

Judge. Small Causes Court  
Sealdah

Judge. SCC, Sealdah