

A-13
Ct No.16
06.04.2026
TN

SAT 7 of 2025
IA No: CAN 1 of 2025

Sri Anup Kumar Roy Chowdhury
Vs.
Sri Animesh Roy Chowdhury and others

Mr. Srikanta Dutta,
Ms. Rituparna Sarkar Dutta,
Sk. Ainuddin Ahemmad

.... for the appellant

Mr. Kalipada Chakraborty

....for the caveator/respondent no.2

1. The present second appeal will be heard on the following substantial questions of law:

- (i) In view of there being a *solenama* decree of partition between the parties, whether the learned First Appellate Court substantially erred in law in reversing the dismissal of the counter claim and passing a fresh preliminary decree of partition with regard to the shares of the parties;
- (ii) Whether the learned First Appellate Court substantially erred in law in passing a preliminary decree of partition without there being any such prayer in the counter claim of the contesting defendant/respondent, in the teeth of the counter claim being restricted to a

declaration of the title of the said defendant in a portion of the subject plot and a consequential relief of permanent injunction.

2. There shall be stay of operation of the impugned judgment and decree passed by the First Appellate Court till disposal of CAN 1 of 2025.
3. The defendants/respondents shall file their affidavits-in-opposition to CAN 1 of 2025 within three weeks from date; reply/replies thereto, if any, shall be filed within a week thereafter.
4. Liberty to the parties to mention the application for hearing before the appropriate learned Single Judge having determination after the above timeline for filing affidavits is over.
5. Since only the respondent no. 2 is represented before us, the appellant shall serve copies of CAN 1 of 2025 on the other respondents within a week from date along with a server copy of this order and file an affidavit-of-service to that effect when the application is finally heard out.

(Sabyasachi Bhattacharyya, J.)

(Supratim Bhattacharya, J.)