

85 **11.12.
2023**

Ct. No. 04

ab

SA 86 of 2023

Sri Prasanta Ghosh

Vs.

Smt. Chhaya Dawn and others.

**Mr. Debjit Mukherjee,
Ms. Susmita Chatterjee,
Ms. Dipanwita Ganguly,
Mr. Kaustav Majumdar,
Ms. Sinjini Chakraborty,
Ms. Priyanka Jana.**

... for the appellant.

The appeal shall be heard on the following substantial questions of law:

- (1) Whether the Court of Appeal below was justified in making out a new case, which is neither pleaded nor any evidence is adduced in this regard, for the purpose of setting aside the judgment and decree of the Trial Court?**
- (2) Whether the deed of partition executed between the parties thereto in the year 1980 can be rendered invalid when none of the parties have challenged the said partition deed nor the party left out therein have ever assailed the same before the Court of Law?**

Let hearing of the appeal be expedited.

The plaintiff/appellant is, therefore, directed to put in the requisites, namely, postal costs, written up notice forms and correct postal address of the defendants/respondents for effecting service of notice of appeal by registered post with acknowledgement due within a week from date. In default, put up for final orders.

The office is directed to effect service upon the

defendants/respondents immediately and upon completion of service shall put a note that the appeal is ready as regards service.

Let the Lower Court's Records be called for through the Special Messenger at the cost of the plaintiff/appellant. Such cost shall be put in within a week from date.

Immediately, after arrival of the Lower Court's Records, office shall examine the same and if found complete, shall issue notice of arrival of Lower Court's Records on the Advocate-on-Record of the plaintiff/appellant under Rule 12 of Chapter IX of the Appellate Side Rules.

The plaintiff/appellant is directed to prepare and file eight copies of informal paper books – printed, typewritten or cyclostyled, as the case may be – out of court, within a period of four weeks after reopening of this Court following Christmas Vacation for the year 2023.

All other formalities regarding preparation of paper books are dispensed with.

After fulfillment of all other formalities, the office shall put a certificate that the appeal is otherwise ready for hearing and liberty is given to the parties to pray for early disposal of the appeal.

(Harish Tandon, J.)

(Madhuresh Prasad, J.)

