

17 **18.09.
2025**

Ct. No. 06

Ab

CO 3396 of 2025

**M/s. Chittaranjan Mistanna Bhandar Pvt. Ltd.
Vs.**

Smt. Monimala Dey and others.

**Mr. Jahar Chakrabarty,
Mr. Anirban Ray,
Mr. Shubham Khan.**

... for the petitioner.

1. This application under Article 227 of the Constitution of India is at the instance of 5th defendant and is directed against an order being 116 dated 19th August 2025 passed by the learned Judge, City Civil Court at Calcutta in Title Suit No. 3395 of 2008.
2. By the order impugned, the learned trial Judge observed that the application under Section 4 of the Partition Act filed by the plaintiffs will be taken up for consideration at the time of trial and passing of judgment.
3. Mr. Chakrabarty, learned Senior Advocate appearing on behalf of the petitioner submits that the provisions of Section 4 of the Partition Act shall apply in a situation where the stranger purchasers purchased a share in the dwelling house belonging to the undivided family and then sues for partition. In support of such contention, Mr. Chakrabarty relied upon a decision of the Supreme Court in case of **Babulal vs. Habibnoor Khan (Dead) by LRS. and others**, reported in **(2000) 5 SCC 662**. He submits the application under Section 4 of the Partition Act is not maintainable in the eye of law.
4. After going through the order impugned, this Court finds that the said application has been kept in abeyance till the conclusion of trial. For such reason, this Court is not inclined to interfere with

the observations made by the learned trial Judge in the order impugned in so far as the applicability of the provisions of Section 4 of the Partition Act to the facts of the case on hand is concerned at this stage.

5. Faced with such situation, Mr. Chakrabarty submits that liberty be given to the petitioner to raise objection with regard to the maintainability of the application under Section 4 of the Partition Act at the appropriate stage. He further submits that the objection of the said application has already been filed by the petitioner in the said suit.
6. In the light of the submissions made by the learned Advocate, CO 3396 of 2025 stands disposed of by giving a liberty to the petitioner to raise an objection with regard to the maintainability of the application under Section 4 of the Partition Act at the appropriate stage. If such objection is raised, the learned trial Judge shall consider the same without being swayed by the observations made in the impugned order as well as in this order.
7. The learned Judge, City Civil Court at Calcutta is requested to make an endeavour to dispose of the Title Suit no. 3395 of 2008 as expeditiously as possible but preferably within a period of one year from the date when the suit is made ready for hearing without granting any unnecessary adjournments to either of the parties.
8. The timeframe as fixed taking note of the fact that the suit is pending from the year 2008.

(Hiranmay Bhattacharyya, J.)

