

D/L.12.
December 15, 2025.
MNS.

SA No. 93 of 2025

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CAN 1 of 2025

Bhubaneswar Chowdhury

Vs.

Md. Taju Biswas and another

Mr. Probal Mukherjee, Sr. Adv.,
Mr. Dhananjay Banerjee,
Mr. Pralay Hazra

... for the appellant.

Mr. Kumar Jyoti Tewari,
Mr. Aniruddha Tewari

...for the respondent no. 1.

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

*i) Whether the learned courts below substantially
erred in law in relying on the evidence of PW1,
who is admittedly a Constituted Attorney of the
plaintiff and deposed in such capacity, without
drawing any adverse inference, despite the PW1
having admitted that the plaintiff was present in
Court at the time of deposition but did not
adduce evidence in support of the plaint case,
particularly since there is nothing in the
evidence of the PW1 which clearly indicates that
he had direct knowledge of the facts involved in
the case.*

ii) Whether the learned courts below substantially erred in law in declaring the absolute title of the plaintiff in respect of a specific portion of the suit property, over which all co-sharers have equal right, title and interest, despite the plaintiff/respondent no. 1 having failed to plead or prove that any partition by metes and bounds has been effected in respect of the suit property.

Re: CAN 1 of 2025 (stay application)

2. Since Mr. Kumar Jyoti Tewari, learned senior counsel, submits that Mr. Aniruddha Tewari, learned counsel appearing with him, has instructions to appear on behalf of the respondent no. 1, the appellant shall serve a copy of the stay application on Mr. Aniruddha Tewari during the course of the day.

3. There shall be stay of operation of the impugned judgment and decree dated August 22, 2025 passed by the learned Additional District Judge, Third Court at Krishnanagar, District: Nadia in Title Appeal No. 37 of 2023 till January 15, 2026, or until further order, whichever is earlier.

4. Liberty to the parties to mention the application for inclusion in the list before the appropriate learned Single Judge then having determination.

(Supratim Bhattacharya, J.) (Sabyasachi Bhattacharyya, J.)