

AD-09
Ct No.16
09.01.2025
TN

FAT 385 of 2023
IA No: CAN 1 of 2024

Sri Dibyendu Mondal and others
Vs.
Smt. Arpita Bej and others

Mr. Arnab Roy,
Mr. Satyam Mukherjee,
Mrs. Sayani Ahmed,
Mr. Purnendu Shekhar Ghosh

....for the appellants

1. Learned counsel appearing for the appellants points out that although the report of the Additional Stamp Reporter indicates that deficit court fees are to be put in by the appellants, the present appeal has been preferred by the defendants against a preliminary decree in a partition suit and, as such, the usual court fees in respect of partition is required to be paid.
2. Upon a careful consideration of the impugned judgment and decree, we find that the plaintiff in the suit did not merely ask for partition but the relief of partition was consequential upon cancellation of a previous judgment and decree, which was also a part of the reliefs claimed in the suit. Accordingly, the suit was valued at Rs.15,00,200/-.
3. Thus, the relief of partition in the present case is consequential upon the other relief of cancellation of the judgment and decree. Moreover, there are other consequential reliefs as well.

4. Accordingly, we stand by the report of the Additional Stamp Reporter. The appellants, thus, are required to put in the deficit court fees.
5. On the prayer of the learned Advocate for the appellants, we grant a week's time to the appellants to put in the deficit court fees.
6. Upon such deficit court fees being deposited, the office shall, within a week thereafter, furnish a report to that effect and tag the same along with the main file.
7. The file be sent down to the department for such purpose.
8. Liberty is granted to the appellants to mention the matter for inclusion in the list as and when such report is furnished by the department.

(Sabyasachi Bhattacharyya, J.)

(Subhendu Samanta, J.)