

24.11.2025
Ct. No. 06
Sl. No.29
skg

C.O. No. 4015 of 2025

Smt. Monimala Dey & Ors.
Vs.
Smt. Sabita Das & Ors.

Mr. Souradepta Banerjee,
Mrs. Fatima Hassan,

.....for the petitioners.

Mr. Jahar Chakrabarty,
Mr. Samir Som,
Mr. Anirban Roy,
Mr. Subham Khan,

...for the O.P. no. 5

1. The petitioners are aggrieved by two orders, both dated 19th August, 2025, being order nos. 116 and 117.
2. By the order No. 117, the learned court directed that the application under Section 4 of the Partition Act filed in Title Suit no. 3395 of 2008, shall be kept in abeyance till the conclusion of the trial. Such order was passed in Title Suit no. 3390 of 2008. Vide order no. 116, passed in Title suit no. 3395 of 2008, the learned trial court held that the application under Section 4 of the Partition Act could only be considered after acquiring evidence and hence the application would be taken up at the time of trial and passing of judgment.
3. Both parties have challenged such order.
4. The opposite party no. 5 filed C.O.3395 of 2008, challenging the order no.116 passed by the learned

Judge, City Civil Court at Calcutta in Title Suit no. 3395 of 2008. The said application was disposed of by a co-ordinate Bench, inter alia, directing that the opposite party no. 5 who was the petitioner, therein, could 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 was raised, the learned trial judge should consider the same without being swayed by any observations made by His Lordship. The order no. 116 was, however, not interfered with, but such liberty was granted. Further direction was that the suit should be expedited and disposed of within a period of 1 year from the date when the suit was made ready for hearing.

5. The order Nos. 116 and 117 are challenged in this revisional application by plaintiff nos. 1(a), 1(b), 2(a), 2(b), 3(b) and 6.
6. In my opinion, the order of His Lordship dated September 18, 2025 passed in CO 3396 of 2025 will govern the challenge in this revisional application as well. The hearing of Title Suit no. 3390 of 2008, and Title Suit no. 3395 of 2008 which are being analogously heard, should be expedited in the manner as provided in the order dated September 18, 2025 passed in C.O. 3396 of 2025. The relevant portions of the order are quoted below:-

“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.”

7. The revisional application is disposed of.

8. Both the suits shall be disposed of within a year from today.

(Shampa Sarkar, J.)