

AD-47
Ct No.16
07.05.2026
(SSS)

FAT 552 of 2025
with
CAN 1 of 2026

Madhab Ranjan Manna
Vs.
Purna Chandra Maity

Mr. Rabindranath Mahato,
Mr. Aritra Shankar Ray
....For the appellant.

Mr. Partha Pratim Roy,
Mr. Samrat Chakraborty
...For the respondent.

1. Affidavit of service filed today be kept on record.
2. Learned counsel appearing for the caveator/respondent points out that despite there being a caveat lodged on behalf of the respondent, an *ex parte* order was passed on March 5, 2025. From a perusal of the application, we find that learned counsel for the caveator/respondent is justified in making such submission. Accordingly, we recall the order dated March 5, 2025 and take up the application for hearing afresh.
3. The moot question involved in the appeal is whether the learned Trial Judge erred in law and in fact in allocating the lion's share from the front

portion of the suit property facing the main road to the plaintiff/respondent, thereby depriving the defendant/appellant. It is also contended by the appellant that the procedure required to be followed in a partition commission proceeding was given a go-by in the present case.

4. Learned counsel for the respondent controverts such submissions and submits that the allocation of shares was in terms of the intention as expressed by the defendant/appellant before the Partition Commissioner.

5. Since arguable questions have been raised, we grant stay of operation of the impugned decree as well as direct both parties to maintain *status quo* as regards physical possession of the suit property till disposal of the appeal.

6. The trial Court records shall be brought by special messenger at the cost of the appellant, to be deposited within a week from date. In view of appearance of the parties, service of notice on the respondent is dispensed with.

7. Since from the subject matter of the dispute, it is evident that the case is fit for exploring the avenue of mediation, we direct the matter to be sent to the Calcutta High Court Mediation Committee for the purpose of mediation between the parties.

8. The office shall take immediate steps accordingly.

9. Liberty is granted to the parties to mention the appeal for enlistment in the event the mediation fails.

10. In such event, the appellant shall prepare and file the requisite number of paper books within eight weeks from the date of service of notice of arrival of the trial court records on the learned Advocate for the appellant.

(Sabyasachi Bhattacharyya, J.)

(Biswaroop Chowdhury, J.)