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Ct. No. 4
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CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE JURISDICTION

C.O. 238 of 2025

Sri Dinesh Agarwal & Anr.
Vs.
Dr. Gostha Behari Das & Ors.

Mr. Amales Ray, Sr. Adv.
Mr. Nigam Mittal
Ms. Akshmita Chhetri
... for the petitioners.

Mr. Subham Ghosh
Mr. Mayank Roy
... for the opposite parties

1. An application under Order 1 Rule 10 of the Code of Civil Procedure (hereinafter referred to as “CPC”) was rejected by the learned Tribunal on November 4, 2025. It is this rejection which has been assailed before this Court.

2. The pivot of the grievance is that the applicants’ land being R.S. Plot No. 8645 is part and parcel of the suit filed by the plaintiffs/ opposite parties against one Mohanlal and presently against his legal heirs.

3. It is not disputed by Mr. Ray, learned Advocate appearing for the applicants, that they are not concerned with R.S. Plot No. 8648. Their rights are only in respect of R.S. Plot No. 8645, the subject matter of the partition suit between the applicants herein and the legal heirs of Biswambharlal, a brother of Mohanlal.

4. Mr. Ghosh, learned Advocate appearing for the opposite parties, has fairly submitted that the subject matter of the two suits are absolutely separate and have nothing in common. Title Suit No. 56 of 2008 exclusively relates to R.S. Plot No. 8648, while the partition suit being Suit No. 33 of 2003 relates to R.S. Plot No. 8645.

5. Mr. Ghosh further submits that they are not claiming any decree in so far as R.S. Plot No. 8645 is concerned and reliefs are restricted in respect of R.S. Plot No. 8648.

6. In view of the submissions made by Mr. Ghosh, I do not find any error in the order passed by the learned Trial Court on November 4, 2025.

7. However, it is made clear that the reliefs in the suit for declaration being Title Suit No. 56 of 2008 will not mitigate or impinge the rights of the applicants herein in any manner whatsoever.

8. With these directions, the revisional application is disposed of.

9. There shall, however, be no order as to costs.

10. Urgent Photostat certified copy of this order, if applied for, be given to the parties on priority basis.

(Reetobroto Kumar Mitra, J.)

