

OD- 8 & 9

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE

IA NO. GA/6/2022
In CS/220/1868

BISWANATH MITRA
Vs
K. C. BASU

IA NO. GA/7/2023
In CS/220/1868

BISWANATH MITRA
Vs
K. C. BASU

BEFORE:
The Hon'ble JUSTICE SUGATO MAJUMDAR
Date : 4th August, 2023

Appearance :
Mr. A. Kr. Boral, Adv.

Mr. S. Mitra, Adv.
Ms. S. Chatterjee, Adv.

The Court: Peruse the report of Assistant Registrar of the High Court, Original Side dated 1st August, 2023. The report shows that possession of the rooms were taken by the Respondent in presence of all putting the padlock. It also states that one tin shaded room is situated on the roof which is under possession of the Petitioner and that is only way to access to enter into the own room of the Petitioner situated adjacent to the said tin shaded room. It is contention of the learned Counsel for the Respondent that in the guise of easementory right or accessory right, whatever that may be, the Petitioner cannot occupy the whole property at Rajbati.

Issue whether the Petitioner should have or had any easementary right or accessory right or entitlement is a question of fact which cannot be decided at this stage. However, there is substantial compliance and answer to the allegation made by the Respondent and possession of the first floor rooms of Rajbati is handed over. Therefore, the suspended shebaitship of the Petitioner, namely, Sanjib Mitra should be restored.

Accordingly, Prayer (a) is allowed. The said restoration shall take effect from the date of suspension and/or termination of shebaitship.

Parties are at liberty to come to amicable settlement regarding access by the Petitioner to his own possession through the Rajbati and to work out an alternative route.

GA/7/2023 is, accordingly, disposed of.

Copy of the report may be handed over by the Assistant Registrar attached to this Court to the concerned parties.

GA/5/2022, GA/6/2022 and GA/8/2023 shall be taken up together on 1st September, 2023.

(SUGATO MAJUMDAR, J.)