

OD-22

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

IA NO. GA/26/2015

In

CS/286/1976

BHUPESH KUMAR MAHAWAR VERSUS MAHABIR PRASAD
MAHAWAR & ORS.

Before:

The Hon'ble Justice BISWAROOP CHOWDHURY

Date: 19th JUNE, 2025

Appearan
Mr. Chayan
Gupta, Adv.
Mr. Ovik Sengupta, Adv
Mr. Saptarshi Bhattacharjee, Adv
...for the plaintiff

The Court: This is an application filed by the plaintiff/petitioner for the following reliefs:

- a) An Order be passed directing the Joint Receivers and Commissioners of partition to take steps for sale of the properties described in paragraph 15 above.
- b) The Joint Receivers and Commissioners of partition be directed to cause publication of the notice of sale of the properties described in paragraph 15 above in one Vernacular daily newspaper and one English daily newspaper.
- c) The Joint Receivers and Commissioners of Partition be directed to provide inspection of the properties to the intending purchasers, put forth the terms and conditions of sale, obtain bids and after receipt thereof, the same be directed to be placed before this Hon'ble Court for passing of necessary orders;
- d) Orders be passed by this Hon'ble Court confirming the sale of the properties described in paragraph 15 to the respective highest purchasers on such terms as this Hon'ble Court may deem fit and proper;
- e) Ad interim orders in terms of prayer above;

f) Such further or other order or orders be passed and direction or directions be given as this Hon'ble Court may deem fit and proper.

It is the contention of the plaintiff/petitioner that the present suit was filed by one Daya Shankar Mahawar (since deceased) inter alia for dissolution of the partnership firm M/S. Girdharilal Ghasira and for partition of the assets and properties of the said firm and other consequential reliefs.

During the pendency of the suit, the original plaintiff and several other parties in the suit had passed away for which necessary substitution has been carried out. It is further contended that by consent of the parties a preliminary decree dated December 18, 1980 was passed. Pursuant to the passing of preliminary decree Joint Receivers and Commissioners of partition was appointed and were subsequently replaced and presently Mr. Jayanta Sanyal Advocate and Mr. Subhankar Chakraborty Advocate are the Joint Receivers and Commissioners of partition. It is also contended that previously the plaintiff took out an application for sale being I.A. GA. No. 18 of 2022 inter alia praying for sale of certain properties of the partnership firm, Giridharilal Ghasira. Pursuant to filing of such application Joint Receivers were directed to carry out valuation of the said property. On filing the valuation report as no exception was taken by any party, the Joint Receivers were directed to carry out sale.

It is contended by the petitioner that the valuation reports of other properties would go to show that the said properties are getting deteriorated by each passing day and the parties are unable to get the fruits of preliminary Decree.

It is further contended that the properties are not under proper maintenance and in the interest of the parties the properties should be sold immediately.

It is also contended that there are other immoveable properties of the said partnership firm which are indicated hereinunder:-

- a) Land at Gopalbag, Koshi Kalan District – Maltwra, Uttar Pradesh Pin Code 281403 known as Bhattawala Land.
- b) Land at Aryanagar Maharshi Dayanand Marg Gali No. 2, Koshi Kalan District Mathura Uttar Pradesh Pin Code-281403.
- c) Land and structure at 54 Old Station Road Tej mandi, Alwa Town, District Alwar Rajasthan Pincode – 301001.
- d) Land and structure at Beldevgang, Building No. 1864, Koshi Kalan District Mathura Uttar Pradesh Pin Code 281403.

Heard Learned Advocate for the Plaintiff Learned Advocate for the Joint Receiver, Learned Advocate for some of the defendants and Learned Advocate for the intending purchaser. Perused the petition filed and materials on record.

Upon hearing the Learned Advocates and upon perusing the petition filed this Court is of the view that the petitioner has been able to make out a case for grant of the reliefs as prayed for.’

Let there be an order in terms of prayer (b) and (c) of the notice of Motion dated 12th day of March 2024.

Fix 29/07/2025 for report Joint Receivers, and further orders.

It is pointed out by the Learned Advocates for the petitioner that in the Order dated June 12, 2025, the name of the Joint Receiver Mr. Subhankar Chakraborty is wrongly recorded as ‘Advocate for the plaintiff’. Let the mistake be rectified.

Let the names of the Learned Advocates shown to be representing defendant in Order dated June 12, 2025 be rectified and corrected as defendant Nos. 1(a), 1(b) (i), 1(b) (ii), 3(a), 3(b) (i), 3(b) (ii), 3(b) (iii), 3(b) (iv), 3(c), 4(a) (i), 4(a) (ii), 4(d) (i), 4(d) (iii), 4(e), 4(f), 5f (i), 5f(ii), 6(c), 6(d), 6(e) (ii), 6(e) (iv) and 6(e) (iii), 13(a), 13(c), 15(a), 15(b), 15(c), 15(d), 16, 17 and 18.

(BISWAROOP CHOWDHURY, J.)

A.Bhar (P.A.).