

ALP/4/2026

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

MOONLAND REAL ESTATE PRIVATE
LIMITED AND ORS.

-VERSUS-

SRI BIRENDRA KUMAR ROY AND ORS.

BEFORE:

The Hon'ble JUSTICE SHAMPA DUTT (PAUL)

Date : 30th July, 2026.

Appearance:

Mr. Jishnu Saha, Sr. Adv.
Mr. Debjit Mukherjee, Adv.
Mr. Rajarshi Dutta, Adv.
Mr. Aditya Kanodia, Adv.
Ms. Shreya Trivedi, Adv.
Ms. Priyonka Jana, Adv.
...for the petitioner.

Mr. Rahul Karmakar, Adv.
Ms. Papiya Roy, Adv.
...for the respondent.

Mr. Alak Kumar Ghosh, Adv.
Mr. Altamas Alam, Adv.
...for the KMC.

1. The application has been preferred praying for liberty to serve the present application upon Sri Subrata Kumar Roy and Sri Sujoy Roy, son of Late Hara Kumar Dhar, residing at UD060107, 1050-1, Survey Park, Police Station Survey Park, Kolkata- 700 075 and Sri Samar Roy, son of late Nemai Chand Roy, residing at 2/1, Gopal Chandra Lane, Police Station- Bowbazar, Kolkata- 700 073.

2. The applicant further prays for transfer of the three suits being **Title Suit No. 97 of 2001** (Smt. Arati Dutta & Anr. Vs. Sri Birendra Kumar Roy & Ors) pending in the **4th Court of the Learned Civil Judge (Sr. Division) at Alipore**, **Title Suit No. 208 of 2017** (Sri Birendra Kumar Roy Vs. Smt. Arati Dutta & Ors) pending before the **Learned VIth Judge, City Civil Court at Calcutta** and **Title Suit No. 1236 of 2018** (Sri Birendra Kumar Roy Vs. Smt. Arati Dutta & Ors.) pending in the **4th Court of the Learned Civil Judge (Sr. Division) at Alipore** along with all pending applications be transferred to this Hon'ble Court to be heard and decided by this Hon'ble Court in a consolidated manner and/or analogously.

3. In course of hearing, the petitioner has placed three copies of the plaint filed in the respective title suits. On perusal of the said copies of the plaints, it appears that the parties and the suit property in the three suits are common and same.

4. It is the contention of the applicant that they have interest in all the three properties which are subject-matter of three title suits and, as such, they have a prayer for being added as a party.

5. Learned counsel for the applicant has relied upon the following judgments:

- i) The judgment of this Court in the case of **Mani Square Ltd. & Anr. vs. Sri Subhash Kumar & Ors.**, which has been affirmed by the Hon'ble Supreme Court in SLP(C) No.17205/2025 dated 4th July, 2025.
- ii) **Kalidas Roy & Ors. vs. University of Calcutta & Ors.** reported in 1951 SCC OnLine Cal 170 (Paragraphs 1, 4, 5 and 7)

6. Learned counsel for the opposite party has strongly objected to the said prayer for transfer on the ground that no inconvenience will be faced by the applicant if the suits are heard by the respective Courts, where the same are pending.

7. The following judgment has been relied upon on behalf of the opposite parties:

Sipra Das & Ors. vs. Sri Sri Iswar Narayan Shalgram Jew Thakur and Sri Radhagobinda Jew Thakur & Ors. (Paragraphs 1 to 4, 10 & 11)

8. Heard learned counsels for the parties and perused the materials placed before this Court.

9. It appears that in all the suits, the issue to be decided is regarding the right, title and interest in respect of the same properties and between the same parties. (most of them common).

10. Thus, the final outcome in the two suits will effect all the parties here in and thus makes out a prima facie case for adjudication by the same court, not only to avoid possible conflicting decisions, but also for the convenience of the parties on both sides, relating to common witnesses, same documents to be proved, while deciding the same issues, similar in all respect to adjudicate the similar reliefs prayed for in the three suits, which are thus inter connected.

11. No prejudice shall be suffered by the opposite parties herein, who instead of pursuing the suits before two forums, would be able to pursue their relief before one court, making the balance of convenience and inconvenience tilt in favour of both parties herein, in case of such transfer.

12. Thus, keeping in view the guidelines of the Hon'ble Supreme Court in cases for transfer, in the present case the balance of convenience and inconvenience of the parties and the witnesses in the suits (three) before the Trial Court require that **the title suit being 208 of 2017 pending before the learned VIth Judge, City Civil Court at Calcutta be withdrawn from the file of the learned VIth Judge, City Civil Court at Calcutta and be transferred to the 4th Court of learned Civil Judge, Senior Division, Alipore** to be tried with the other two pending title suits being Title Suit No. 97 of 2001 and Title Suit No. 1236 of 2018 before the said Court.

13. Interest of Justice, for a "fair trial" in the present case requires that the three suits be tried by the same Court, being 4th Court of learned Civil Judge, Senior Division at Alipore, as no prima facie ground has been made out to justify the transfer of the cases before this Hon'ble Court.

14. This Court finds no merit in the submission of the learned Counsel for the opposite party who objects to the prayer of transfer considering that if, the three title suits are heard by the same Court, it will be convenient for all the parties to the proceedings. As such, an objection placed only for the sole reason of raising an objection is not entertained by this Court.

15. It appears that Title Suit No.97 of 2001 is of the year 2001. 26 years have passed since its filing. Accordingly, learned Court being 4th Civil Judge, Senior Division is requested to make all endeavour to dispose of the suits as expeditiously as possible, preferably within one year from the date of this order.

16. Considering that an appeal is pending from the Title Suit No.97 of 2001 being Title Appeal No.30 of 2014 and also that the suit of 2001 is being delayed for the pendency of the appeal, the learned appellate Court of Additional District Judge, 7th Court, Alipore shall make all endeavour to dispose of the appeal within two months from this order.

17. As to the prayer for liberty to serve upon Sri Subrata Kumar Roy, appropriate application be made before the trial Court, which the Court should consider in accordance with law.

18. Accordingly, ALP/4/2006 stands disposed of.

(SHAMPA DUTT (PAUL), J.)