

IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
ORIGINAL SIDE

IA NO. GA/2/2025

In

CS/136/2023

KAILASH NEVATIA

VS

SHIV KUMAR NEVATIA & ANR.

BEFORE:

The Hon'ble JUSTICE ARINDAM MUKHERJEE

Date: 21st April, 2025.

APPEARANCE:

Mr. Nirmalya Dasgupta, Adv.

Mr. Dibanath Dey, Adv.

For the plaintiff.

Mr. Rohit Banerjee, Adv.

Mr. Asif Sohail Tarafdar, Adv.

For the defendants.

The Court :- In a suit for partition by consent of the parties the shares have been declared by passing a preliminary decree on 27th January, 2025. A Commissioner of Partition has already been appointed. The said Commissioner has been also granted leave to appoint a Valuer for effecting the partition.

The time to file the report by the Commissioner of Partition is up to 30th June, 2025.

This is an application by the defendants alleging that the structure situate and lying at premises No. 76, Bentinck Street, Kolkata 700001 being one of the suit properties has been demolished and new construction has been

undertaken threat by a developer, namely M/s. Sreekrishna Estates at the instance of the plaintiff. The plaintiff, however, denies the allegations made by the defendants in this application.

It is also the case of the plaintiff that this application has lost its force in view of the subsequent events, particularly, the visit of the Commissioner of Partition has visited the said premises for more than once in presence of the defendants. This application has been filed on 20th February, 2025.

Be that as it may, without going into the allegation and counter allegation, I think justice will be sub-served, if I direct the Commissioner of Partition to visit the suit property situated at 76, Bentinck Street, Kolkata-70001 immediately upon prior notice to the plaintiff and the defendants.

The Commissioner of Partition shall after visiting the said premises shall file a detailed report before this Court on the adjourned date regarding the number of floor in the building at the said premises, the particulars of occupancy with names of the occupant and area under occupation with the location of the unit.

Let this matter appear on 1st May, 2025.

The parties are directed to serve a copy of this order to the Commissioner of Partition by tomorrow (22.04.2025).

(ARINDAM MUKHERJEE, J.)

snn.