

Appellant Vs. Respondent

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Court : Kolkata

Decided On : Sep-22-2014

Judge : Girish Chandra Gupta

Appellant : Appellant

Respondent : Respondent

Judgement :

ORDER

SHEET GA No.1231 of 2014 APO No.238 of 2014 With CS No.153 of 2009 IN THE HIGH COURT AT CALCUTTA Civil Appellate Jurisdiction ORIGINAL SIDE TARUN KUMAR SAHA Appellant Versus SWAPAN KUMAR SAHA & ANOTHER Respondents BEFORE: The Hon'ble JUSTICE GIRISH CHANDRA GUPTA The Hon'ble JUSTICE SHIB SADHAN SADHU Date : 22nd September, 2014.

For Appellant : Mr.D.S.

Mullick, Advocate Mr.B.N.

Jaiswal, ADvocate For Respondents : Ms.Suparna Mukherjee, Advocate Mr.Amit Chatterjee, Advocate Mr.Goutam Kumar Goon, Advocate The Court : The subject matter of challenge in this appeal is an order dated 3rd March, 2014 by which the learned Trial Court has directed the Commissioner of Partition to effect the partition of the suit property on the basis of the report filed in Court.

this order that the present appeal has been filed.

It is against Mr. Mullick submitted that the report of the Commissioner is based on an advisory of the learned Trial Court partition and cannot be allotted effected.

rooms to There the may parties be some to the suit, substance in the the submission advanced by Mr. Mullick but partition by metes and bounds does not appear to be possible.

We adjourned the matter earlier in order to enable Mr. Mullick, learned Advocate for the appellant to take instruction as to the portion of the building defendant No. 2 may like to take.

time.

which the defendant No. 1 or the The matter was adjourned for a very long In spite thereof Mr. Mullick is not in a position to make his choice as to the portion of the property his client, the defendant No. 1 or Mr. Jaiswals client, the defendant No. 2 would like to take.

In the circumstances there is nothing that the Court can do.

We have no doubt in our mind that the procedure adopted by the Chartered Engineer and the Commissioner of Partition for the purpose of effecting the partition is fair.

However, attempts should be made to equalise the shares of the parties by directing payment of owelty money.

With these observations the appeal is disposed of.

(GIRISH CHANDRA GUPTA, J.) (SHIB SADHAN SADHU, J.) msen

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