



IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

BEFORE:
THE HON'BLE JUSTICE RAVI KRISHAN KAPUR
AND
THE HON'BLE JUSTICE ATARUP BANERJEE

FA 303 of 2014
SAFIKUL ISLAM KHAN
Vs.
DHULO SK.& Ors.

For the appellant :Mr. Tanmoy Mukherjee, Adv.
Mr. Sarbananda Sanyal, Adv.
Ms. Poulami Chakraborty, Adv.

For the respondent :Mr. Goutam Misra, Adv.
Mr. Vaskar Pal, Adv.

Heard On :16.09.2026.

Judgement On :07.10.2026



Atarup Banerjee, J. :

1. This is an appeal against the judgment and decree passed by the Learned Civil Judge, (Senior Division) Second Court at Krishnangar, Nadia in Title Suit No. 195 of 2014 dated 31st July, 2014 whereby the Trial Judge has dismissed a suit for partition.
2. The suit premises, as described in the schedule of the plaint belonged to one Jeher Ali Sk. (Jeher), Bahar Ali Sk.(Bahar), Dhulo Sk. (Dhulo) (brothers), Chittaranjan Singharoy and Harugopal Singharoy. Prior to the R.S. records there was an amicable partition between Jeher, Bahar & Dhulo in respect of the suit plot measuring 1.17 acres. Despite having equal shares during Land Reforms Record of Rights (LRROR) operation a mistake which occurred in the administration of R.S. map, was subsequently corrected. Jeher and Dhulo have been in quiet and exclusive possession of the western and Eastern portion of the suit premises respectively. The plaintiff/appellant applied for correction of Revisional Settlement Records of Rights (RSROR) in consonance with the RS map before the jurisdictional BL & LRO, Kaliganj whereby Misc. Case no. 1/08 was initiated. The concerned Revenue Officer by an order dated 14.02.08 decided that 59 decimals were to stand in the name of the plaintiff/appellant herein and 58 decimals in the name of defendant no. 1/ respondent no. 1 herein in the parent plot no. 1665. Accordingly, LRROR was published. Since the suit premises was unpartitioned, the appellant along with respondent no.1 are in equal possession.



3. After having executed two registered deed dated 25.09.98 Jeher transferred 33 decimals in favour of his wife and 26 decimals in favour of his son i.e. appellant, out of his 8 anna shares. After final publication of LRROR, the RS plot no. 1665 has been renumbered as L.R Plot No. 2547. Khodejan Bibi subsequently on 11.09.2001 transferred her share of 33 decimals in favour of her son i.e. the appellant by way of registered deed of gift. In such circumstances, Misc. Case no. 1/08 was initiated at the instance of the appellant herein, wherein he prayed for correction and the concerned BL & LRO passed an order and consequentially the LRROR was finally published. As a result of the above, the suit property became unpartitioned in between the appellant and the respondent no. 1 and for which cause of action arose to institute this suit for partition.
4. The respondents contested the suit by filing a written statement in which it was indicated that suit premises originally belonged to Jeher, Bahar, Dhulo Chittaranjan Singharoy and Gopal Singharoy. Before RS operation one amicable partition took place between them. As a result of such amicable partition, Bahar got the entire property of RS plot No. 1665. In such circumstances, his name was recorded in RSROR in respect of RS plot No. 1665. The remainder of the premises came to the hands of other four co-sharers including his brothers Jeher and Dhulo their names were accordingly recorded in PSROR. After the demise of Bahar his three sons Sukurulla Sk., Ummatulla Sk. and Niyamat Sk. inherited his property and have been in possession their names being recorded in finally published LRROR. 14 decimals each was recorded in the name of



Ummatulla Sk. and Sukurulla Sk. Subsequently, they sold their respective 14 decimals share each to Debnarayan Chowdhury by two separate registered Deeds of Sale dated 19.01.1983 and 08.02.83 respectively and delivered possession of the same. The name of Debnarayan Chowdhury, 28 decimals of the property was recorded in the finally published LRROR. Subsequently, he sold his 28 decimals in favour of Ayub Sk., represented by his guardian father Noor Mohd., by a registered deed of sale and delivered possession thereof. Their names are recorded in finally published LRROR. On the basis of said amicable partition Jeher and Dhulo got non-suit plot No. 1665/2871 and have been in possession of the same. The appellant herein has no right, title, interest in respect of the following suit premises. In the above circumstances issues were framed.

- (a). Is the plaint schedule vague and indefinite?(Issue no 2)
- (b). Is the suit bad for defect of parties? (Issue no 3)
- (c). Is the plaintiff entitled to get the decree for partition against the defendant No. 1 as prayed for? (Issue no 4)

The Learned Trial Judge upon appreciation of the evidence on record both oral and documentary arrived at the conclusion that the appellant had no right, title, interest and possession in respect of suit plot no. 1665 comprising a total area of 41 decimals and thereby dismissed the suit.

5. It is contended on behalf of the appellant that the suit could not have been dismissed due to wrong recording of name in the ROR as well as the propriety and legality of the order passed for correction of the records



correctly does not create or extinguish title of any person over any immovable property.

6. Per contra, on behalf of the respondent no. 1 it was submitted that schedule of the suit was vague and there was no basis for the partition demanded by the plaintiff. From the Exhibits, it was crystal clear that the claim of the appellant in the suit was not legally valid due to non-joinder of effective parties.
7. The sole issue which arises for consideration is whether the judgement and decree passed by the Trial Court suffers from any legal infirmity or perversity ?
8. In a suit for partition fundamental ingredients which are required to be considered are the following:
 - (a). The nature and the character of the properties in the suit partition.
 - (b). How and by which source the plaintiff acquires the right, title and interest to have his share in respect of suit property seeking partition?
 - (c). Whether the properties are included in the suit and all co-shares, co-parceners, co-owners, or joint owners, as the case may be, are made parties to the suit.
 - (d). The plaintiff must explain a clear intention to sever joint status and seek a physical or formal division of his share.
 - (e). The property in the suit for partition, must be supported by the evidence.



9. A partition of a property can be only among those having a share or interest in it. "Separation of share" is a species of "partition". The right of partition being a consequence of co-ownership – once it is found by the Court of Law that the parties are co-owners, a suit for partition cannot be resisted by the defendant. A co-owner is entitled to demand partition of a joint property as matter of right. The co-owner demands the other co-owners to effect partition amicable and that is refused, any co-owner may exercise such right by instituting a suit for partition.
10. Upon appreciation of the evidence on record both oral and documentary, it has been found that:
- (i). The suit premises no. 1665 comprises a total area of 41 decimals only and non-suit premises no. 1665/2871 comprises a total area of 1.17 acres.
 - (ii). The plaintiff has no manner of right, title, interest and possession in respect of suit plot no. 1665 comprising a total area of 41 decimals whereas the defendant has his 14 decimals therein.
 - (iii). The primary source of right, title and interest in respect of premises of the parties flows from RSROR finally published sometime in the early 1950's, has not been challenged by any of the parties.
 - (iv). The subsequent transfer of shares in respect of the suit plot had occurred. Significantly those parties who are also having right, title and interest over the suit premises have not been impleaded as



parties in the said suit.

11. For the reasons discussed above, we find that there is no legal infirmity nor perversity found in the judgment passed by the Trial Court in Title Suit No.195 of 2014. The impugned judgment passed in Title Suit No. 195 of 2014 is hereby affirmed. The instant appeal being no. F.A. 303 of 2014 is dismissed.
12. No order as to costs.
13. Registry is directed to return the Trial Court Records to the concerned Jurisdictional Court.
14. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

I agree.

[RAVI KRISHAN KAPUR, J.]

[ATARUP BANERJEE, J.]