

ITEM NO.46

COURT NO.3

SECTION XVI

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s).13494/2024

[Arising out of impugned final judgment and order dated 22-03-2024 in SA No.110/2013 passed by the High Court at Calcutta]

RAJAT CHOWDHURY & ANR.

Petitioner(s)

VERSUS

DHANANJAY CHOWDHURY (DEAD) THROUGH LRS.

Respondent(s)

IA No.136637/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.136636/2024-EXEMPTION FROM FILING O.T.

IA No. 175147/2024 - APPLICATION FOR SUBSTITUTION

IA No. 176424/2024 - APPROPRIATE ORDERS/DIRECTIONS

IA No. 136637/2024 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

IA No. 136636/2024 - EXEMPTION FROM FILING O.T.

Date : 07-05-2025 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SURYA KANT

HON'BLE MR. JUSTICE NONGMEIKAPAM KOTISWAR SINGH

For Petitioner(s) Mr. Swarnendu Chatterjee, AOR
Ms. Deepakshi Garg, Adv.
Mr. Manan Daga, Adv.
Ms. Harshita Rawat, Adv.

For Respondent(s) Mr. Huzefa Ahmadi, Sr.Adv.
Mr. Aura Mazumdar, Adv.
Mr. Anand Sukumar, Adv.
Ms. Ruche Anand, Adv.
Mr. Sayaree Basu Mallik, AOR

UPON hearing the counsel the Court made the following
O R D E R

1. We have heard learned counsel/Senior Counsel for the parties at a considerable length and perused the record, especially the Report dated 14.01.2025, sent by the Additional District Magistrate and the District Land and Land Reforms Officer, Uttar Dinajpur.

2. Taking notice of the facts beyond the subject matter of this litigation, it emerges that CS Plot No.1172 is measuring about

8.1 Katha whereas CS Plot No.1173 is measuring about 15.2 Katha. It further seems that in West Bengal, one Katha is equivalent to 720 sq.ft.

3. The dispute in the Civil Suit pertained to CS Plot No.1173 only. It seems that in CS Plot No.1173, the first respondent owns 7.4 Katha. The suit property also comprises that plot measuring 7.4 Katha, which is owned by the respondent. The house in dispute is also constructed on that plot.

4. It has, however, come on record through the Report of the Additional District Magistrate and the District Land and Land Reforms Officer, Uttar Dinajpur, referred to above, that CS Plot No.1172 is in possession of the parties for a long time. The area of that plot appears to be 8.1 Katha. While 5 Katha is in possession of the respondents, the petitioners possess 2.8 Katha out of a total area of CS Plot No.1172. A temple has also been constructed on the said plot, which is a part of 5 Katha of land in possession of the respondent.

5. The parties are closely related. The petitioners are children of the real brother of the respondent. Taking these aspects in view, we have spent some time to explore the possibility of an amicable settlement of the dispute.

6. We have suggested to the parties that -

(a) The respondent may surrender and hand over the possession of the vacant land, other than the temple, in CS Plot No.1172 exclusively in favour of the petitioners.

(b) The petitioners will construct their separate residential house on CS Plot No.1172 after merging the vacant land to be given to them by the respondent along with 2.8 Katha of land already in their possession.

(c) The petitioners shall construct their house within one year.

(d) The respondent shall permit the petitioners to retain possession of first floor of the house in CS Plot No.1173 for a period of one year, to enable the petitioners to construct their own house.

(e) Once the house is constructed, the petitioners will have to hand over vacant possession of the part of the house in their possession in CS Plot No.1173, free from all encumbrances and unconditionally, in favour of the respondent.

7. What is now left is another area of contention between the parties, namely, the temple constructed on CS Plot No.1172. While the respondent claims that the temple exclusively belongs to them, the petitioners assert that it is a joint property and they too have a right to visit the said temple.

8. It seems to us that the issue regarding temple as well as other structures can be worked out with the assistance of a seasoned and experienced Mediator, who might find out some viable solution in this regard. Consequently, and as suggested by learned counsel/Senior Counsel for the parties, the matter is referred to the Supreme Court Mediation Centre to explore the possibility of an amicable settlement of the dispute.

9. The parties are directed to appear online before the Supreme Court Mediation Centre on 22.05.2025 at 12.00 Noon.

10. The matter shall be entrusted to some Senior Mediator.

11. Learned Mediator may initially permit the parties to appear online and if need be, they be called in person to interact on the issue.

12. It goes without saying that if the parties are unable to resolve the dispute amicably, they will be heard on merits.

13. Post the matter for further consideration on 30.07.2025 after the receipt of report from the Supreme Court Mediation Centre.

14. Meanwhile, the execution proceedings shall be kept in abeyance.

(SATISH KUMAR YADAV)
ADDITIONAL REGISTRAR

(PREETHI T.C.)
ASSISTANT REGISTRAR