

(2014) 07 CAL CK 0079

Calcutta High Court

Case No: C.S. No. 521 of 1992

Pasupati Dutta

APPELLANT

Vs

Kalpana Dutta

RESPONDENT

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**Date of Decision:** July 24, 2014**Acts Referred:**

- Transfer of Property Act, 1882 - Section 19, 21, 29

**Hon'ble Judges:** Debabrata Mookerjee, J**Bench:** Single Bench**Advocate:** Arindam Mukherjee, Sananda Mukherjee, Haradhan Banerjee, Sumit Kr. Ray, Nayemuddin Munshi and N. Chowdhury, Advocate for the Respondent

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### Judgement

Debangsu Basak, J.

The partition suit relates to the division of the estate left behind by Moni Mohon Dutta since deceased. Late Moni Mohon Dutta was survived by his widow, the original Plaintiff No. 1, four sons being the Plaintiff No. 2, Defendant Nos. 1, 2 and 3 and one daughter, the Defendant No. 4, as his heirs and legal representatives.

2. The suit was filed by the widow of late Moni Mohon Dutta as the Plaintiff No. 1, and one of his sons the Plaintiff No. 2, against the other heirs and legal representatives. The widow died on September 18, 2003. The Defendant No. 1 died on August 24, 2005. The Defendant No. 1 was survived by the Defendant Nos. 1A and 1B. Consequent upon the death of the parties, the cause title to the plaint was amended. The parties had disclosed various documents. The plaintiff had produced one witness at trial. The Defendant No. 1A and 1B had produced one witness and the Defendant Nos. 5, 6 and 7 produced one witness. At the time of hearing of the arguments of the parties, none appeared on behalf of the plaintiff to make any submission.

3. Mr. Haradhan Banerjee, learned Advocate for the Defendant Nos. 1A and 1B contends that, Moni Mohon Dutta died seized and possessed of three immovable

properties. Moni Mohon Dutta, since deceased, was survived by his widow, four sons and one daughter. The deceased Defendant No. 1 was one of the sons of late Moni Mohon Dutta. His clients are the heirs and legal representatives of the deceased Defendant No. 1. Therefore, as the heirs and legal representatives of one of the deceased son of late Moni Mohon Dutta, his clients are entitled to 1/6th share in the estate of late Moni Mohon Dutta. On the death of the widow of Moni Mohon Dutta being the grand-mother of his clients, his clients are entitled to 1/5th share in the estate of Moni Mohon Dutta, since deceased.

4. He contends that, the deed of settlement dated August 20, 1991 set up by the Defendant Nos. 7, 8 and 9 by which the Defendant Nos. 7, 8 and 9 were purported to be gifted the 1/6th share of the widow of Moni Mohon Dutta, the original Plaintiff No. 1, in respect of two immovable properties, namely, premises No. 21, Girish Avenue, Shyampukur, Kolkata-700003 and the premises No. 211/1/2, Shibpur Road, Howrah is suspect. He submits that, the plaint was presented on September 8, 1992. He highlights the suspicious circumstances relating to the deed of settlement in reference to the conduct of the parties and the pleadings in the suit. The original Plaintiff No. 1 as the first plaintiff in the suit did not refer to the deed of settlement dated August 20, 1991 in the plaint. The plaint case is not on the basis of the deed of settlement. Another suspicious circumstance, according to the Defendant Nos. 1A and 1B, is that, the Defendant Nos. 5, 6 and 7 till 2001 was claiming not to know of the deed of settlement. These suspicious circumstances, according to him, are material and are required to be given due weightage and consideration by the Court.

5. He submits that, the original Plaintiff No. 1 died on September 18, 2003. The amendment application consequent upon such death was filed by the Plaintiff No. 2. It was stated in such amendment application that, the Plaintiff No. 1 died intestate.

6. On the deed of settlement itself which is marked as Exhibit "A" in the instant suit, it is submitted on behalf of the Defendant Nos. 1A and 1B that, the document itself bears signs of the document being suspect. The date when the stamp was purchased is commented upon. The stamp paper on which the document was executed, was purchased by one Advocate while the document was prepared by a different Advocate. The noting on the document states that, such document was allegedly presented for registration at 5 A.M. It is contended on behalf of the Defendant Nos. 1A and 1B that, assuming though not admitting the deed of settlement to be duly executed, such deed of settlement did not create any right in favour of the Defendant Nos. 5, 6 and 7 and that, no right flowed to the Defendant Nos. 5, 6 and 7 by virtue of such deed of settlement. It is submitted that, a title could be transferred in praesenti. The deed of settlement spoke of devolvment of interest of the original Plaintiff No. 1 in one of the two properties in the deed of settlement upon the death of the Plaintiff No. 1. Therefore, according to the Defendant Nos. 1A and 1B no right flowed on the Defendant Nos. 5, 6 and 7. No

right having flowed to the Defendant No. 1A and 1B in respect of the properties it is contended by the Defendant Nos. 1A and 1B that, the Defendant Nos. 5, 6 and 7 were not entitled to division of the three immovable properties involved in the suit in equal shares as that of the plaintiff No. 1 and the Defendant Nos. 2, 3 and 4 equally. It is submitted on behalf of the Defendant Nos. 1A and 1B that, the shares of the parties to the suit, therefore, be declared as 1/5th each to the Plaintiff No. 2, the Defendant Nos. 1A and 1B jointly, Defendant Nos. 2, 3 and 4. In support of the proposition that, no right flowed by virtue of the deed of settlement reliance is placed on [Namburi Basava Subrahmanyam Vs. Alapati Hymavathi and others](#), All India Reporter [Kokilambal and Others Vs. N. Raman](#), [Subbegowda \(Dead\) by Lr. Vs. Thimmegowda \(Dead\) by Lrs., Sri Satyendra Narayan Banerjee and another Vs. Shrimati Pubali Banerjee and others](#), All India Reporter [G. Narasimhulu Chetti and others Vs. S. Pandurangaiah Chetti and others](#), All India Reporter [Ponnuchami Servai Vs. Balasubramanian and Others](#), [Tarumoni Mondal and Others Vs. Prafulla Kumar Mondal and Others](#), [Annapurna Debya Vs. Amiyanath Banerjee and Others](#),

7. The learned Counsel appearing on behalf of the Defendant No. 2 adopted the submissions advanced on behalf of the Defendant Nos. 1A and 1B.

8. Mr. Arindam Mukherjee, learned Advocate for the Defendant Nos. 5, 6 and 7 contends that, his clients are jointly entitled to 1/6th share of the deceased, original Plaintiff No. 1 in respect of two immovable properties by virtue of the deed of settlement dated August 20, 1991. He submits that, the deed of settlement is valid. It is a registered document. He submits that, the deed of settlement is not under challenge by any of the parties to the suit. No suit in the knowledge of his clients is pending for the purpose of seeking declaration that, the deed of settlement is null and void. In absence of any declaration to the contrary such deed of settlement is binding and valid. He refers to Section 29 and other provisions of the Transfer of Property Act, 1882 and contends that, there is no embargo on the title to an immovable property devolving upon a party subsequent to the death of the owner. The deed of settlement in the instant case, according to him, provided that, the title to the four rooms in respect of one of the properties out of the two properties involved, would devolve upon the Defendant Nos. 5, 6 and 7 upon the death of the original Plaintiff No. 1. Such provision in the deed of settlement is not contrary to any provision of the Transfer of Property Act, 1882. No provision of the Transfer of Property Act, 1882 was cited on behalf of the Defendant Nos. 1A and 1B and 2 to say to the contrary. In such circumstances he submits that, the Defendant Nos. 5, 6 and 7 jointly are entitled to 1/6th share in the two properties specified in the deed of settlement dated August 20, 1991.

9. I have considered the respective contentions of the parties and the materials on record.

10. The suit is for partition of two immovable properties and a declaration that the original Plaintiff No. 1 was the sole and absolute owner of one immovable property.

The Plaintiff No. 2 also sought a declaration that he is the sole proprietor of the business under the name and style of M/s. Dutto Brothers situate at premises No. 21, Girish Avenue, Kolkata. Original Defendant No. 1, Defendant No. 2 and Defendant No. 4 had filed separate written statements. The Defendant No. 2 had filed an additional written statement. The parties had disclosed various documents. Four witnesses were examined. Mahamaya Dutta the original Plaintiff No. 1 was examined on April 20, 1998. The Plaintiff No. 2 was examined in chief on and from March 5, 1988. He was also cross-examined. The Defendant No. 1B was examined in chief and was cross examined. The Defendant No. 5 was similarly examined and cross-examined.

11. The parties to the suit are descendents of late Moni Mohon Dutta. Late Moni Mohon Dutta died intestate on February 27, 1975. The Plaintiff No. 2, the Defendant Nos. 2 and 3 are his sons and the Defendant No. 4 is his daughter. The Defendant Nos. 1A and 1B are his grand-daughters being the daughters of his deceased son Gopi Nath Dutta. The Defendant Nos. 5, 6 and 7 are the three sons of the Plaintiff No. 2 and the persons in whose favour the original Plaintiff No. 1 had executed the deed of settlement dated August 20, 1991.

12. Three immovable properties described in the plaint are involved in the suit. There are other reliefs prayed for in the plaint as well.

13. The deed of settlement dated August 20, 1991 was executed by the original Plaintiff No. 1 in favour of the Defendant Nos. 5, 6 and 7. By such deed all right, title and interest of the original Plaintiff No. 1 in respect of the two immovable properties described in the deed was transferred to and vested with the Defendant Nos. 5, 6 and 7 absolutely and forever. In respect of four rooms of premises No. 21, Girish Avenue, Kolkata which were occupied by the original Plaintiff No. 1, during her lifetime the deed of settlement provided that, they would devolve upon the Defendant Nos. 5, 6 and 7 after the death of the settlor in terms of the said deed.

14. The Defendant Nos. 1A and 1B jointly and the Defendant No. 2 assails the deed of settlement as invalid, bad in law and no right flowing thereunder. The deed of settlement dated August 20, 1991 is marked as Exhibit "1" in the suit.

15. Exhibit "1" being the deed of settlement, therefore, requires consideration. Exhibit "1" is in Bengali vernacular. Exhibit "1" is a registered document. By Exhibit "1" the original Plaintiff No. 1 dealt with two immovable properties in Schedule "Ka" or "A", an immovable property lying and situate at premises No. 21, Girish Avenue, Shyampukur, Kolkata-700003; and in Schedule "Kha" or "B" she dealt with an immovable property lying and situate at premises No. 211/1/2, Shibpur Road, Howrah. There is another Schedule "Ga" or "C" which deals with four rooms at premises No. 21, Girish Avenue, Shyampukur, Kolkata-700003. The deed of settlement provides that Schedule "C" would devolve on the Defendant Nos. 5, 6 and 7 upon the death of the original Plaintiff No. 1. By the deed of settlement, the

original Plaintiff No. 1, transferred all her right, title and interest in respect of the three scheduled properties in favour of the defendant Nos. 5, 6 and 7. Schedule "C" of the deed of settlement described the four rooms which were under the occupation of the original Plaintiff No. 1 at the residential premises No. 21, Girish Avenue, Shyampukur, Kolkata-700003. In respect of such four rooms, she had provided in the deed of settlement that, the right, title and interest in respect thereof would devolve upon the Defendant Nos. 5, 6 and 7 only upon her death.

16. Mr. Haradhan Banerjee, learned Advocate for the Defendant Nos. 1A and 1B, sought to highlight these aspects of the deed of settlement. He contends that, in respect of the two immovable properties, the settlor, meaning thereby the original Plaintiff No. 1 settled the same absolutely and forever inter vivos. He submits that, the right, title and interest in respect of the four rooms described in Schedule "C" of the Exhibit "A" is provided to devolve only upon the death of the settlor. Therefore, it is contended on behalf of the Defendant Nos. 1A and 1B that, the document is suspect and that, it did not confer any title to the Defendant Nos. 5, 6 and 7. Mr. Banerjee cited few authorities in support of his contentions as to the nature of the deed and whether any right, title or interest could devolve upon the Defendant Nos. 5, 6 and 7 by virtue of such a deed.

17. Namburi Basava Subrahmanyam (*supra*) relates to a case where two settlement deeds were under consideration. The interpretation of the deed of revocation of the deed of settlement came up for consideration. It was held that, the nomenclature of a document is not conclusive. The recitals in the document as a whole and the intention of the executant and the acknowledgement thereof by the parties were conclusive. The Court is required to find out whether the document conferred any interest in the property in praesenti so as to take effect intra vivos and whether an irrevocable interest thereby, was created in favour of the recipient under the document, or whether the executant intended to transfer the interest in the property only on the demise of the settlor. That could be gathered from the recitals of the documents as a whole. Adverting into the present case, therefore, Exhibit "1" is required to be construed.

18. Kokilambal & Ors. (*supra*) was concerned with a question of the effect of two earlier settlements made by the settlor. In such context it was held that, a deed of settlement was one of the recognized methods of devolution of immovable property under the provisions under the Hindu Law. The Courts had accepted a deed of settlement to be a legal and valid mode of transfer of property. The Courts also emphasized that, in order to find out the true intention of the settlor, the settlement was required to be read as a whole and inference drawn of its content. The terms of settlement should be closely examined and the intention of the settlor should be given effect to. Sometimes there was absolute vesting and sometime there was vesting as contemplated in Sections 19 and 21 of the Transfer of Property Act, 1982.

19. In Subbegowda (supra) it was held that, a transfer accompanied by conditions was unknown to law of real property. In the present context, the learned Advocate for the Defendant Nos. 1A and 1B as well as the learned Advocate for the Defendant No. 2 contends that, the settlement deed being Exhibit "1" contains clauses which made the devolvement of the title to the immovable property concerned conditional. Therefore, such a deed did not give any title to the Defendant Nos. 5, 6 and 7 in respect of two immovable properties.

20. In Sri Satyendra Narayan Banerjee (supra) it was held that, the deed of settlement in that case was to take effect on the demise of the settlor. Since the initial deed of settlement was to take effect on the death of the settlor, the subsequent deed of settlement was not illegal and that execution of a fresh settlement by a registered deed, however, was not barred.

21. In G. Narasimhulu Chetti (supra) construction of a document came up for consideration. The document was such that, it gave possession of the immovable properties to the beneficiaries with a stipulation that, the beneficiaries would enjoy and possess such property. It also provided that, the beneficiaries would receive absolute title upon the death of the executors. Such document was held to be a gift and not a settlement.

22. In Ponnuchami Servai (supra) the Madras High Court was concerned with the construction of a document. The question was, whether the document presented before it was a Will or a gift. In such context, the Madras High Court was of the view that, the caption or the nomenclature given by the parties to the transaction was not decisive of the question as to whether the document was a Will or a gift. The Madras High Court was of the view that, the real and only reliable test for the purpose of finding out whether the document constitutes a Will or a gift or a settlement was to examine the nature of the disposition under the document to see whether it had transferred any interest in praesenti in transfer of interest in favour of the beneficiary only on the death of the executant.

23. In Tarumoni Mondal (supra) question arose, whether by an unregistered deed, title could be conveyed to any person or not. In the facts of that case it was found that, the land stood vested with the State.

24. The deed of settlement being Exhibit "1" deals with the immovable properties that belonged to the original Plaintiff No. 1 in three Schedules. Schedule "A" relates to the residential premises No. 21, Girish Avenue, Shyampukur, Kolkata-700003. Schedule "B" is the Shibpur, Howrah property. Schedule "C" relates to the four rooms which the Plaintiff No. 1 was using during her lifetime at premises No. 21, Girish Avenue, Shyampukur, Kolkata-700003. By the separate clauses in the deed of settlement being Exhibit "1" the original Plaintiff No. 1 as a settlor transferred her 1/6th share of premises No. 21, Girish Avenue, Shyampukur, Kolkata-700003 in favour of the Defendant Nos. 5, 6 and 7. At the same time she was reserving for

herself the right of residence in the four rooms lying and situate at premises No. 21, Girish Avenue, Shyampukur, Kolkata-700003.

25. The judgments cited on behalf of the Defendant Nos. 1A and 1B requires a Court not to be persuaded by the nomenclature of a document only but to read the document as a whole to find out the intention of the executant. The nature of the disposition under the document requires consideration. Exhibit "1" is a deed of settlement and is registered. It provides for devolvement of the interest of the executant in respect of four rooms of the residential premises subsequent to her death and at the same time transfers her interest in respect of the two immovable properties in praesenti. Applying the ratio of the judgments cited on behalf of the Defendant Nos. 1A and 1B, it could not be said that Exhibit "1" is invalid and that no title passed to the Defendant Nos. 5, 6 in respect of the two immovable properties involved therein.

26. Mr. Haradhan Banerjee, learned Advocate contends that, the deed of settlement is suspect due to various other reasons also. There is variance, according to him, between the learned Advocate purchasing the stamp paper for the deed of settlement and the learned Advocate drafting the deed of settlement. I am of the view, no law prevented the settlor to have a stamp paper purchased by one Advocate and to have the deed of settlement prepared and registered through another Advocate on such stamp paper. The next suspicious circumstance as to the deed of settlement, according to Mr. Banerjee, is the time of presentation of deed of settlement for registration which, according to him, was noted as of 5 A.M. In my view, Exhibit "1" is a registered document. Any error apparent on the face of the record as to the time for presentation of the document for registration is not sufficient, in the facts and circumstances of this case, to render a finding that the document is suspect.

27. The document speaks of settlement of right in respect of immovable properties in praesenti and a small portion of the immovable properties concerned to devolve upon death of the settlor. Again no law was shown to me to say that, a settlor by a deed of settlement could not transfer absolute right in respect of two immovable properties and retain for herself the right of residence in respect of four rooms in one of such properties with a direction that, they would devolve absolutely on the beneficiaries subsequent to the death of the settlor. None of the decisions cited before me supported any of the contentions of Mr. Banerjee. The decisions required the Court to consider the deed of settlement without being persuaded by the nomenclature used. The deed is required to be read with as a whole to understand the intention of the settlor. In the instant case on a meaningful reading of the deed of settlement it would appear that, the settlor intended to transfer two immovable properties absolutely in favour of the Defendant Nos. 5, 6 and 7 in praesenti and retained the right of residence in respect of four rooms which the settlor was occupying during her lifetime and provided that the same would devolve upon the

Defendant Nos. 5, 6 and 7 absolutely subsequent to her death. The settlor, no doubt was a part owner of the premises in which she was retaining to herself the right of residence in respect of the four rooms.

28. No law was cited before me to show that, a settlor such as the original Plaintiff No. 1 could not have transferred her 1/6th share and retained the right of residence in respect of four rooms that she was occupying in that residential premises. Exhibit "1" is a registered deed of settlement. Exhibit "1" was registered with the appropriate registering authority. There is no challenge to such deed by the parties claimed to be affected thereby in any appropriately instituted suit. There is no decree of Court declaring such deed to be null and void or invalid. Therefore, Exhibit "1" is a valid document.

29. By Exhibit "1" the original Plaintiff No. 1 transferred her share in premises No. 21, Girish Avenue, Shyampukur, Kolkata-700003 and the Shibpur property in favour of the Defendant Nos. 5, 6 and 7.

30. In such circumstances, the Defendant Nos. 5, 6 and 7 jointly are entitled to the share of the original Plaintiff No. 1 in premises No. 21, Girish Avenue, Shyampukur, Kolkata-700003 and premises No. 211/1/2, Shibpur Road, Howrah. At the time of execution of the deed of settlement being Exhibit "1" and also at the time of her death, the original Plaintiff No. 1 was entitled to 1/6th share in the properties described in Exhibit "1". The Defendant Nos. 5, 6 and 7, therefore, are entitled to 1/6th share in premises No. 21, Girish Avenue, Kolkata-700003 and premises No. 211/1/2, Shibpur Road, Howrah. The Plaintiff No. 2, Defendant Nos. 1A and 1B jointly, Defendant No. 2, Defendant No. 3 and the Defendant No. 4 each will, therefore, be entitled to 1/6th share in respect of the aforesaid two immovable properties. There will be decree to such effect in respect of such properties for the parties to the suit.

31. Next comes the question of prayer (b) to the plaint. Prayer (b) to the plaint concerns a premises at Beni Mitra Lane. The Original Plaintiff No. 1 claimed herself to be the sole and absolute owner of such property. In support of the claim that she was the sole and absolute owner of the Beni Mitra Lane property, the original Plaintiff No. 1 during her lifetime gave evidence before the Court and proved a deed of gift being Exhibit "A". By virtue of such deed of gift she became the sole and absolute owner of the Beni Mitra Lane property. In cross-examination of the original Plaintiff No. 1, it was sought to be made out that two immovable properties were involved in Beni Mitra Lane, namely, 16 and 16/1 and that there were two separate properties, and that they were not her absolute property.

32. The contentions of the Defendant Nos. 1A and 1B and Defendant No. 2 that the original Plaintiff No. 1 was not the sole and absolute owner of the Beni Mitra Lane property lost significance with the death of the original Plaintiff No. 1. The deed of settlement being Exhibit "1" in the proceedings executed by the original Plaintiff No.



1 did not refer to the Beni Mitra Lane property.

33. Consequently, on the death of the original Plaintiff No. 1 the original Plaintiff No. 2, the Defendant Nos. 1A and 1B jointly, the Defendant No. 2, the Defendant No. 3 and the Defendant No. 4 will inherit the Beni Mitra Lane property equally. Therefore, there will be a decree declaring the Plaintiff No. 2, the Defendant Nos. 1A and 1B jointly, the Defendant No. 2, the Defendant No. 3 and the Defendant No. 4 to have 1/5th share each in the Beni Mitra Lane property.

34. The Beni Mitra Lane property, therefore, is required to be divided in five lots between the Plaintiff No. 2 and the Defendant Nos. 1A and 1B jointly, Defendant Nos. 2, 3 and 4 equally.

35. The next portion of prayer (b) of the plaint relates to a sole proprietorship concern of the Plaintiff No. 2. The Plaintiff No. 1 gave evidence that, the business of M/s. Dutto Brothers to be his sole proprietorship concern. In evidence on the witness-box the Plaintiff No. 2 established that, he is the sole proprietor of such firm for a considerable period of time to the exclusion of his other brothers and sisters. He relies upon various documents in support of such contention. Licenses granted by the municipal authorities are referred to establish such business to be his sole proprietorship concerned. He was cross-examined elaborately on such issue.

36. On appraisal of the evidence on record, I find that the Plaintiff No. 2 to be the sole proprietor of M/s. Dutto Brothers and will, therefore, be entitled to a decree of declaration to such effect.

37. Next came the question of division of the three immovable properties by metes and bounds between the parties in accordance with their respective shares in the respective immovable properties. In the course of hearing I tried to persuade the parties to come to an amicable settlement for division of the immovable properties by metes and bounds. The parties submit that, the two immovable properties namely the one at Shibpur, and the other at Beni Mitra Lane, Howrah are fully tenanted and that, the parties are ad-item in putting such properties up for sale by public auction.

38. That left the residential property at premises No. 21, Girish Avenue, Shyampukur, Kolkata-700003 for partition by metes and bounds. The immovable property at premises No. 21, Girish Avenue, Shyampukur, Kolkata-700003 is little more than 4 cottahs and it is physically impossible to partition 4 cottahs of land into six shares vertically. The Kolkata Municipal Corporation Act, 1980 would not permit such an exercise to be undertaken. The next option is of horizontal partition of such property. The same was tried amongst the parties. The parties could not agree to the partition of the premises No. 21, Girish Avenue, Shyampukur, Kolkata-700003 horizontally.

39. Three immovable properties are involved as noted. The parties are ad-item in putting up two immovable properties for sale. The third immovable property could not be partitioned by metes and bounds vertically. The parties are not agreeable to have such property partition horizontally.

40. The parties also want partition of the three immovable properties concerned.

41. In the facts and circumstances of the instant case, no useful purpose would be sub-served by directing the Commissioner of Partition to be appointed herein to undertake division of the Girish Avenue property by metes and bounds either horizontally or vertically inasmuch as vertical partition was impossible in view of the provisions of the Kolkata Municipal Corporation Act, 1980 and the parties failed to agree to a horizontal partition amicably. Instead of wasting time and money on an infructuous attempt for the division of Girish Avenue property by metes and bounds it would be appropriate to direct sale of the Girish Avenue property by public auction also.

42. In such circumstances, I am of the view that, justice would be sub-served by appointing the Advocate on Record for the Plaintiff No. 2, the Defendant Nos. 1A and 1B, Defendant No. 2 and Defendant Nos. 5, 6 and 7 as the Joint Commissioner of Partition in respect three immovable properties without any remuneration. The Joint Commissioner of Partition will put up the three immovable properties for sale by public auction by inserting advertisement in newspaper. The sale will be subject to the confirmation of the Court. The Joint Commissioner of Partition will obtain the market value of the immovable properties concerned from the appropriate office of the Registrar of Assurances and will use such market value as the reserve price in respect of the three immovable properties concerned.

43. C.S. No. 521 of 1992 is decreed accordingly. Department will draw and complete the decree as expeditious as possible.