

CRP 498/2006
BEFORE
HON'BLE MR JUSTICE H N SHARMA
CRP No 498/2006
15.12.2006

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Heard Mr S Medhi, learned counsel for the petitioner.

At the outset Mr Medhi, learned counsel for the petitioner, submits that since the respondent No (a) Smt Radha Das was expired, her name has been wrongly incorporated in the array of respondents.

The challenge made in this revision petition is the order dated 20.3.2006 passed by the learned Executing Court, ie, Civil Judge (Senior Division), Dhubri, in Title Execution Case No 2/02. By the impugned order, the learned Executing Court set aside the order passed by the Settlement Officer, Dhubri, dated 21.9.2005 and directed the Settlement Officer to make partition as per the observations made by the Civil Court in Partition Case which was affirmed by the High Court in Second Appeal No 101/95.

In order to effect the partition the revenue authority in terms of the decree passed by the learned Civil Court, the matter was forwarded to the Deputy Commissioner, Dhubri, who in turn forwarded the same to the Settlement Officer, Dhubri. The Settlement Officer, Dhubri, again forwarded the matter to the Assistant Settlement Officer, Bilasipara, The Assistant Settlement Officer, Bilasipara, in terms of the decree so finalized by the Civil Court prepared a report effecting partition and sent the same for approval of the Settlement Officer.

But the Settlement Officer on receipt of the same virtually set aside the decree passed by the Civil Court which the Settlement Officer, Dhubri, has neither any power nor any jurisdiction to do so but his role is only to execute the order of the Court. As per provisions contained in CPC, the Settlement Officer, Dhubri, has neither any business nor any authority to adjudicate dispute of any of the parties. The Executing Court has rightly set aside the order and has rightly directed to effect partition in terms of the decree. Accordingly, the aforesaid order does not fall in any of the categories for interference by this Court in exercise of superintending jurisdiction under Article 227 of the Constitution. The Settlement Officer, Dhubri, is directed to effect partition in terms of the decree passed by the Civil Court preferably not later than two months from today.

With the aforesaid observations and direction, the revision petition is disposed of.

JUDGE

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