

C.O. 249 of 2019
Anil Kumar Gupta
v.
Sunil Gupta & Anr.

15.12.2020 Mr. Srikanta Dutta ... for the petitioner.
Sl-177
Ct.11
(S.R.)
via video
conference

The petitioner has filed the instant application under Article 227 of the Constitution of India challenging the Order No.54 dated January 8, 2016 passed by the learned Civil Judge (Junior Division), 1st Court at Asansol in Title Suit No.155 of 2008.

By the order impugned the petitioner's application under Order No.I Rule 10 of the Code of Civil Procedure praying for being added in the suit as a co-plaintiff was rejected.

The learned advocate for the petitioner submits that the suit property has been purchased from the income of the Hindu Undivided Family and as such the suit property is the property of the Hindu Undivided Family. The petitioner and the plaintiff are the members of the Hindu Undivided Family. The learned advocate further submits that the petitioner has subsisting interest over the suit property and as such, he is a necessary party in the instant suit.

The plaintiff/opposite party no.1 claims to be the absolute owner of the suit property.

The instant suit has been filed by the opposite party no.1 for eviction of the opposite party no.2 herein from the

suit property. The controversy between the petitioner and the opposite party no.1 as to whether the opposite party no.1 is the absolute owner of the suit property or the suit property is the joint family property of the petitioner and the opposite party no.1 herein is not germane in a suit for eviction. The petitioner herein, claiming title to the property, is not necessary party in a suit of instant nature.

Addition of the petitioner as the party to the suit would enlarge the scope of the suit, which is also not permissible.

Furthermore, the petitioner herein has prayed for being added as a co-plaintiff in the instant suit. It appears from the averments made in the application under Order I Rule 10 of the Code that the interest of the petitioner herein and the opposite party no.1 herein is conflicting. Persons with conflicting interest cannot also be added as plaintiffs in the suit.

The impugned order does not suffer from any infirmity.

CO No.249 of 2019 is dismissed without any order as to costs.

Photostat certified copy of this order if applied for be supplied to the parties upon compliance of all formalities.

(Hiranmay Bhattacharyya, J.)