

20<sup>th</sup> November, 2020  
(D/L No.8)  
(SKB)

**C.O. 455 of 2020**  
**With**  
**CAN 1 of 2020**  
(Via Video Conference)

Goutam Jana and another  
Versus  
Amalesh Kumar Das

Mr. Joy Saha, Sr. Adv.,  
Mr. Subhojit Saha  
... for the petitioners.

Mr. Aniruddha Chatterjee,  
Mr. Chayan Gupta  
... for the opposite party.

The present revisional application is against two orders passed by the learned Civil Judge (Junior Division) 1<sup>st</sup> Additional Court, Contai on 19<sup>th</sup> September, 2019 and 14<sup>th</sup> January, 2020, by which the application for dismissal of the suit and rejection of the plaint filed by the petitioners herein (opposite parties in the suit) was rejected.

The dispute involves consideration of section 8 of the West Bengal Land Reforms Act, 1955 under which the right of purchase of co-sharers or contiguous content, the applicant can be exercised upon making a deposit of the consideration money together with a further sum of 10 per cent of that amount.

Learned Senior Counsel appearing for the petitioners assail the orders on various grounds including

that all the opposite parties have only paid a sum of Rs.2,00,000/-(rupees two lac only) and 10 per cent of that amount instead of the full consideration money which is Rs.15,00,000/-(rupees fifteen lac only). Counsel also takes up the point of *res judicata* which was decided against the petitioners ignoring a recent judgment of the Supreme Court passed in ***Barasat Eye Hospital and others Versus Kaustabh Mondal in Civil Appeal No.1090 of 2010.***

However, on the submission of learned Counsel appearing for the opposite parties that his clients are willing to make an immediate payment of Rs.15,00,000/- out of which Rs.2,00,000/- has already been deposited together, with a further 10 per cent of the said amount, this Court is of the view that the instant application can be disposed of by an order directing the learned court below to accept the amount on behalf of the opposite parties (plaintiffs in the suit) and expedite the hearing of the suit. The point with regard to limitation of the suit and other issues regarding maintainability etc., if any, shall be kept open.

In view of the above, the orders dated 19<sup>th</sup> September, 2019 and 14<sup>th</sup> January, 2020 are not interfered with. The learned court below is, however, requested to hear and dispose of the suit filed by the opposite parties preferably within a period of 12 weeks from date. The opposite parties are directed to put in the balance amount within two weeks from date.

C.O. 455 of 2020 is disposed of in terms of the above.

The application being CAN 1 of 2020 is also disposed of by this order.

**(Moushumi Bhattacharya, J.)**