

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

Present:

The Hon'ble Justice Ajoy Kumar Mukherjee.

C.O. 111 of 2019

DURJOY GOSWAMI & ORS.
VERUS
DR. DEBABRATA GOSWAMI

For the petitioner: Mr. Mrinal Kanti Ghosh.

For the opposite party: None.

Heard on: 13.12.2021

Judgement on: 23.12.2021

Ajoy Kumar Mukherjee, J.

1. Being aggrieved and dissatisfied with the order dated 19/12/2018 passed by the learned District Judge at Jalpaiguri in Misc. Case No. 40 of 2018 present misc. case has been preferred. By the impugned order learned District Judge at Jalpaiguri was pleased to reject the petitioners prayer for transfer of Title Suit No. 43 of 1994 pending before the learned Civil

Judge(Junior Division) at Jalpaiguri to the Court of learned Civil Judge(Senior Division) at Jalpaiguri.

2. It has been contended by the learned counsel for the petitioner that the petitioner filed a suit for partition and for other consequential reliefs as plaintiff against Debesh Chandra Goswami and others before the learned Assistant District Judge at Jalpaiguri being partition suit No. 27 of 1994. The opposite party herein filed a suit for declaration of title and for permanent injunction against the aforesaid Asutosh Goswami before the learned Civil Judge(Junior Division) at Jalpaiguri and it was registered as Title Suit No. 43 of 1994 (T.S. 2456 of 2014).

3. It is further submitted that in Partition Suit No. 113 of 2015 Durjoy Goswami, Sanjoy Goswami, Suranjoy Goswami are impleaded as plaintiffs and Dr. Debabrata Goswami, Smt. Swapna Goswami and some others are impleaded as defendants and the suit property involved therein relates to R.S. plot no. 72 measuring .676 decimal of land, R.S. plot no. 73 measuring .109 decimal of land, in total .785 decimal of land and as described in 'A' schedule to the plaint. Similarly, in Title Suit No.43 of 1994 the suit is between Shri Debabrata @ Debu Goswami and Shir Asutosh Goswami, Shri. Durjoy Goswami, Shri. Sankha Goswami and Shri. Suranjoy Goswami and the property involved in Title Suit No. 43 of 1994 which is a declaratory suit is also comprising of R.S. plot no. 73 with an area of .109 acres of land comprising

L.R. plot no. 105 with structure standing therein as described in schedule to the plaint of said Title Suit No. 43 of 1994.

4. In view of the above, the subject matter of Title Suit No. 43 of 1994 is also subject matter of Title Suit No. 113 of 2015. In such a situation if both the suits be not heard analogously there is serious chance conflicting judicial decision in respect of self-same property.

5. In view of the aforesaid facts and circumstances of the case, Title Suit No. 43 of 1994 (T.S. 2456 of 2014) is withdrawn from the file of learned Civil Judge (Junior Division) at Jalpaiguri and is hereby transferred to the Court of learned Civil Judge (Senior Division) at Jalpaiguri, where the Partition Suit No. 113 of 2015 is pending in respect of the self-same property.

C.O. 111 of 2019 is accordingly allowed without any order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(AJAY KUMAR MUKHERJEE, J.)