

(05)
22.11.2021
(p.jana)

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION**

(Via Video Conference)

CO No. 237 of 2020

**Bengal Ambuja Housing Development Limited
-versus-
Sovan De & ors.**

Mr. Saptangshu Basu,
Mr. Anirban Ray,
Mr. Snehashis Sen,
... for the petitioner.

Mr. Avirup Mondal,
Mr. Sumitava Chakraborty, ... for the O.P. No. 2.

Affidavits of service filed on behalf of the petitioner in Court today be kept with the record.

None appears on behalf of the opposite parties in spite of service except the opposite party no. 2.

The instant revisional application under Article 227 of the Constitution of India is at the instance of the defendant no. 1 in a suit for declaration of title and injunction and is directed against the latter part of the order dated August 01, 2019 passed by the 5th Court of learned Civil Judge (Senior Division), Alipore in the said suit in Title Suit No. 205 of 2016.

The plaintiffs/opposite parties have filed the suit in the representative capacity. The learned Trial Judge by the order impugned has granted leave as required under Order I Rule 8 of the Code of Civil Procedure to the plaintiffs on a purported application filed by them. The petitioner is disputing the existence of such an application on record.

The appearing opposite party no. 2 also supports the said allegation of the petitioner.

Grant of said leave to the plaintiffs on an application not in record is not proper, as such, the said part of the order dated August 01, 2019 is set aside.

C.O. 237 of 2020 is thus allowed without any order as to costs.

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

(Biswajit Basu, J.)