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08.02.2021
(p.jana)

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

(Via Video Conference)
CO 192 of 2021

Bimala Purkait
-versus-
Prasanta Das & anr.

Mr. Tapas Kumar Mondal,
Mr. Sukhendu Banerjee,
Mr. Anirban Dey,
Mr. Dilip Kumar Mondal,
Mr. Mrityunjoy Saha,
... for the petitioner.

Mr. Kushal Chatterjee, ... for the opposite parties.

This revisional application under Article 227 of the Constitution of India is at the instance of the defendant in a suit for ejectment being Ejectment Suit No. 64 of 2010 and is directed against the order dated January 11, 2021 passed by the learned Civil Judge (Junior Division), Bidhannagar, District : 24 Parganas (North) in the said ejectment suit.

The learned Trial Judge by the order impugned has dismissed an application filed by the defendant for holding local inspection of some non-suit properties.

The defendant in his application under Order XXXIX Rule 7 of the Code of Civil Procedure contended that the plaintiff in his cross-examination has admitted that he is acquainted with some non-suit properties in the locality which leads to the presumption that the ownerships of those properties are known to him and on that basis sought the inspection of the said properties.

The plaintiff in his written objection to the said application stated that he is engaged in the business of developing immovable properties as such is acquainted with many properties at Baranagar area but that does not lead to the conclusion that he is the owner of the properties in respect of which inspection has been sought for.

The petitioner when is specifically alleging the ownership of the plaintiff in respect of said non-suit properties, duty casts upon him to deny the same specifically. That not being done by the plaintiff a further exercise to ascertain the ownerships of those non-suit properties is required.

The order impugned for the aforesaid reason is set aside and C.O. 192 of 2021 is disposed by directing the learned Trial Judge to decide the said application afresh after giving the parties an opportunity to produce evidence as to the ownerships of the said non-suit properties.

This Court is not expressing any opinion regarding the relevancy of such inspection, it is for the learned Trial Judge to decide the same in accordance with law.

In view of the nature of the suit and the stage it has already reached, the learned Trial Judge is requested to dispose of the said application expeditiously preferably within a period of three weeks from the date of communication of this order.

No 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.)