

30<sup>th</sup> July,  
2021  
(AK)  
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**C.O. 604 of 2020**

**Badri Prasad Agarwala and others**  
**Vs.**  
**Manju Das and others**

(Via video conference)

Mr. Sobhan Majumder

...For the Petitioners.

In view of the nature of the order proposed to be passed, which would not affect any right and/or contention of the opposite parties, service on the opposite parties is dispensed with to avoid unnecessary protraction of litigation.

By the impugned order bearing Order No.46 dated December 13, 2019, the trial Judge recorded that he thinks he should not try the case as the suit is “related to religious sentiment and public in general” and the case be withdrawn from that court and be transferred to any other court.

First, the court which is hearing a matter, by itself, cannot exercise the power under Section 24 of the Code of Civil Procedure and/or direct the transfer of a matter, that too on such a ridiculous ground, even under its administrative capacity.

Hence, the impugned order suffers from palpably illegality. The Trial Judge unnecessarily shirked his duty

to take up the matter and decide it on merits, causing undue harassment and delay to the parties.

Hence, C.O. 604 of 2020 is allowed, thereby setting aside Order No.46 dated December 13, 2019 passed by the Civil Judge (Senior Division) at Chanchal, District-Malda in Partition Suit No.195 of 2016, without any order as to costs.

The petitioners shall intimate this order on the opposite parties and/or their advocate appearing in the court below as well as to the trial court itself.

The trial court is requested to resume hearing of the matter and decide the same on merits.

Urgent website certified copies of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

**(Sabyasachi Bhattacharyya, J.)**