

06,DL,Ct.18.  
08.03.2021  
AJ.

**C.O. 477 of 2021**

**M/s. Kakoli**

**-Vs-**

**Shri Dilip Kumar Bandopadhyay & Ors.**

Mr. Debasish Roy,  
Mr. Debnath Mahata.  
....for the petitioner.

Mr. Rahul Karmakar.  
...for the opposite parties.

The defendant in a suit for eviction is the petitioner of the present application under Article 227 of the Constitution of India and is directed against Order dated March 16, 2020 passed by the 7th Court of the learned Civil Judge (Senior Division) at Alipore, District : 24 Parganas (South) in Title Suit No. 11169 of 2013.

The petitioner filed an application under Order 7 Rule 11 of the Code of Civil Procedure praying rejection of the plaint of the said suit on the ground that notice to quit since was issued at the instance of the proforma defendant, the suit is not maintainable on the basis of such notice.

The learned Trial Judge by the order impugned has dismissed the said application.

The proforma defendant being one of the co-sharers of the suit property is entitled to issue a notice to quit on behalf of the other co-sharers.

The ground on which the petitioner sought rejection of the plaint of the suit does not attract any of the conditions of Order 7 Rule 11 of the

Code warranting rejection of the plaint of the said suit.

The learned Trial Judge, therefore, is absolutely justified in dismissing the said application.

The order impugned does not call for any interference.

C.O. 477 of 2021 is dismissed. No order for costs.

The learned Trial Judge is requested to expedite the hearing of the suit.

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

**(Biswajit Basu, J.)**