

02.12.2021
(S/L-14)
Ct.-18
(Susanta)

(Via Video Conference)

C.O. 793 of 2021

Sri Krishnendu Bhakto
-Vs-
Tapas Kumar Manna & Ors.

Mr. Joy Saha,
Mr. Subhojit Saha,
.... For the Petitioner.

Mr. Uttam Kumar Bhattacharya,
... For the Opposite Parties.

The revisional application under Article 227 of the Constitution of India is at the instance of the plaintiff in a suit for partition and is directed against Order No. 12 dated March 16, 2021 and Order No. 13 dated March 19, 2021.

The learned Trial Judge by the first order impugned has refused to take the written notes of argument on record proposed to be filed by the petitioner on an application under Order XXXIX Rule 7 of the Code of Civil Procedure filed by the defendant nos. 1 to 3 and by the subsequent order impugned has allowed the said application.

The defendant Nos. 1 to 3 inter alia, have sought for inspection of the suit property to ascertain its nature, character and possession.

The points on which the said defendants are seeking inspection of the suit property are completely irrelevant exercise inasmuch as the suit is a suit for partition and it is at a very

nascent stage, similar exercise would be required after the suit being decreed in preliminary form to make it final.

The Order no. 13 Dated March 19, 2021 is, therefore, set aside. The application filed by the defendant nos. 1 to 3 for holding local inspection of the suit property is dismissed.

The learned Trial Judge is requested to expedite the disposal of the suit in accordance with law.

The learned Trial Judge is further requested to scrutinize the records to ascertain whether the shares of the parties in the suit property are admitted and if so, to make endeavour to decree the suit in preliminary form by taking recourse of Order XII Rule 6 of the Code of Civil Procedure.

C.O. 793 of 2021 is allowed with the above terms without any order as to costs.

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.)