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02.12.2021
(p.jana)

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
(Via Video Conference)**

CO No. 1296 of 2021

Smt. Bhabani Bag

-versus-

**Ram Chandra Das since deceased
substituted by Purnima Das & ors.**

Mr. Sanat Kumar Roy,
Mr. Abhishek Banerjee ... for the petitioner.

Mr. Ujjal Roy ... for the opposite parties.

This revisional application under Article 227 of the Constitution of India is at the instance of the plaintiff in a suit for declaration of title and injunction which is directed against the order dated April 12, 2021 passed by the learned Additional District Judge, Fast Track Court, Chandernagore, District- Hooghly in Misc. Appeal No. 17 of 2013.

The application filed by the petitioner under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure in the suit being Title Suit No. 79 of 2013 pending before the 1st Court of learned Civil Judge (Junior Division), Chandernagore, District : Hooghly was dismissed by the learned Trial Judge vide order no. 6 dated June 07, 2013.

The petitioner aggrieved by the said order, preferred the connected Misc. Appeal No. 17 of 2013.

The appeal Court below by the order impugned has dismissed the said appeal.

Mr. Sanat Kumar Roy, learned advocate for the petitioner submits that the appeal Court below has erroneously held that the petitioner has not challenged the wrong recording of the names of the defendants in the record of

rights of the suit property as an appeal against the said wrong entries in the record of rights of the suit property is pending before the concerned authority.

Mr. Ujjal Roy, learned advocate for the opposite parties disputing the said submission of Mr. Roy submits that the appeal preferred by the petitioner has already been dismissed for default, only an application for restoration thereof is pending.

Be that as it may, the petitioner is seeking for an order of injunction to protect her possession over the suit property and to put up construction thereon. The petitioner has failed to prove her prima facie possession over the suit property; on the other hand, the record of rights of the suit property admittedly stands in the name of the defendants, giving rise to a presumption of possession of the suit property in favour of the defendants. The petitioner has failed to produce any document to rebut the said presumption.

The learned Court below, under the aforesaid circumstances, has rightly refused the prayer of the petitioner for the order of injunction.

The said suit is pending since 2013, C.O. 1296 of 2021 is thus disposed of with a request to the learned Trial Judge to expedite the disposal of the said suit in accordance with law. There shall be 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.)