

16.03.2021
(S/L-03)
Ct.-18
(Susanta)

(Via Video Conference)

C.O. 1738 of 2016

Sri Subhas Chandra Jana
-Vs-
Sri Gurudas Ghosh

Mr. Gopal Chandra Ghosh,
..... For the Petitioner.

Mr. Sumitro Dasgupta,
Mr. Nitya Gupal Mukherjee,
..... For the Opposite Party.

The rejoinder to the exception filed by the
opposite party is taken on record.

The revisional application is directed against
the order whereby the learned Trial Judge has
dismissed an application of the
defendant/petitioner seeking repair of the suit
property.

This Court by the order dated December 22,
2020 allowed the petitioner to execute the repair
work mentioned in the schedule of the
application for repair.

Mrs. Sabita Mukherjee Roy Chowdhury
learned advocate was appointed as a Special
Officer to oversee the said repair work.

The petitioner has filed an exception to the
report of the said Special Officer alleging that it is
not reflecting the actual extent of tenancy of the
petitioner.

Mr. Ghosh, learned Senior advocate appearing on behalf of the petitioner submits that the tenancy of the petitioner is comprised of 1615 sq. ft. but the petitioner has been allowed to execute repair work in respect of a portion of his tenancy.

He further submits that unless the petitioner is allowed to repair the entire area covered under his tenancy, he would not be able to use his tenancy to its fullest extent.

In the plaint the suit property has been described as all that piece and parcel of two shop-room being room no. 4 and 5 made by brick wall and tin shed situated at one Haldar Para Road, Post office and Police Station – Budge Budge, District South 24-Parganas Kolkata 700137, without specifying the area comprised in the said tenancy.

It appears from the report of the Special Officer that the petitioner in the field map prepared by the Special Officer on spot has identified his tenancy by putting signature.

Under such circumstances, so long the dispute regarding the area comprised in the tenancy of the petitioner is not resolved, the prayer of the petitioner for execution of further repair work of the suit property cannot be entertained.

The report of the Special Officer is accepted upon rejection of the exception to it by the petitioner.

It is however made clear that this order will not prevent the petitioner to resolve the said dispute in accordance with law.

The learned Trial Judge is requested to expedite the disposal of the suit and the applications thereto, if any.

C.O. 1738 of 2016 is disposed of with the above terms.

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 with all requisite formalities.

(Biswajit Basu, J.)