

25.11.2021
(S/L-68)
Ct.-18
(Susanta)

(Via Video Conference)

C.O. 1586 of 2021

Sri Hemanga Chandra De
-Vs-
M/s. Arctic India Sales & Anr.

Ms. Sananda Ganguli,
Mr. Rohit Banerjee,
Mr. Subhradip Ray,
Mr. Altamash Alim,
.... For the Petitioner.

Affidavit-of-service filed on behalf of the petitioner be kept with the record.

None appears on behalf of the opposite parties in spite of service.

The instant revisional application under Article 227 of the Constitution of India is directed against an order dated April 20, 2021 passed by the 2nd Court of learned Civil Judge (Junior Division), Alipore in Ejectment Suit no. 38 of 2016.

The petitioner is the plaintiff of the said suit.

The learned Trial Judge by the order impugned has allowed an application under Order I Rule 10(2) of the Code of Civil Procedure filed by the opposite party no. 2, who happens to be the brother of the petitioner.

The opposite party no.2 in the said application has claimed right in respect of the suit property on the basis of a will allegedly executed by his mother.

The suit is a suit for ejectment of premises tenant simpliciter, in such a suit the dispute sought to be raised by the opposite party no. 2 cannot be decided.

In view of the scope of the said suit, the opposite party no. 2 is neither a necessary nor even a proper party to it, therefore, his addition in the said suit is wholly unwarranted.

The order impugned, for the aforesaid reason, is not sustainable and is accordingly set aside.

C.O. 1586 of 2021 is allowed 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.)