

AD. 4.
August 23, 2021.
MNS.

C. O. No. 3576 of 2018
(**Via video conference**)

Lakshmi Sarkar and others
Vs.
Dilip Chakraborty

Mr. Rajdeep Bhattacharyya

... for the petitioners.

Affidavit-of-service filed in Court today be
taken on record.

Despite service, none appears on behalf of
the opposite party.

The short question which arises for
consideration in the present revisional application is,
whether the trial court acted without jurisdiction in
rejecting the defendants-petitioners' application
under Order VII Rule 11 of the Code of Civil
Procedure on the ground that, as admitted in
paragraph- 4 of the plaint of the eviction suit, the
plaintiff-opposite party was described as a *thika*
tenant, which excludes the jurisdiction of the civil
court to take up such matters and relegates the
same to be decided by the Thika Controller.

It is evident from the averments made in the
plaint, particularly in paragraph- 4 of the same, that
the dispute involved in the suit is between *bharatias*

and a *thika* tenant, being the petitioners and the opposite party respectively.

Under Section 21 the West Bengal Thika Tenancy (Acquisition and Regulation) Act, 2001 (in short the Act of 2001), the jurisdiction of the civil court has specifically been excluded regarding such matters. Section 10 of the said Act of 2001 confers specifically the power to adjudicate disputes arising between the *thika* tenant and their *bharatias* by the Thika Controller.

As such, the trial court acted without jurisdiction in rejecting the petitioners' application under Order VII Rule 11 of the Code.

C. O. No. 3576 of 2018 is accordingly allowed, thereby setting aside order no. 15 dated July 27, 2018 passed by the Civil Judge (Junior Division), Fourth Court at Alipore, District- South 24 Parganas, in Ejectment Suit No. 18 of 2016. The plaint of Ejectment Suit No. 18 of 2016, pending before the said court, stands rejected by virtue of this order, with liberty to the opposite party to approach the appropriate forum on the self-same cause of action as taken in the plaint.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)