

(26)
02.03.2021
(p.jana)

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

CO No. 4186 of 2019
(IA No : CAN 1/2020)
(Old No : CAN 1121/2020)

(Via Video Conference)

Pradip De alias Pradip Dey & anr.
-versus-
Dibakar Kunti & anr.

Mr. Ranjit Kumar Jaiswal,
Mr. Nanda Lal Pradhan, ... for the petitioners.

Mr. Rwitendra Banerjee,
Mr. Sandip Kundu, ... for the opposite parties.

This revisional application under Article 227 of the Constitution of India is at the instance of the defendants in a suit for eviction and is directed against the order no. 34 dated August 28, 2019 passed by the learned Civil Judge (Junior Division) at Amta, District: Howrah in the said suit being Title Suit No. 129 of 2014.

The petitioners by an application under Section 114 of the Transfer of Property Act, 1882 (hereinafter referred to as the said Act, in short) sought permission of the learned Trial Judge to deposit the arrear and current rent in the suit.

The learned Trial Judge by the order impugned has dismissed the said application.

The relief contemplated under Section 114 of the said Act is available to a lessee/defendant in a suit when the lessor

sues to eject the lessee upon determination of the lease by forfeiture for non-payment of rent.

The suit out of which the present revisional application arises, the plaintiffs/opposite parties has sued the defendants/petitioners upon determination of the tenancy by a notice to quit as contemplated under Section 111(h) of the said Act.

Therefore, Section 114 has got no manner of application in the said suit.

The application filed by the petitioners for deposit of the arrear and current rent in such a suit under Section 114 of the said Act is wholly misconceived, the learned Trial Judge, therefore, has not committed any error in dismissing the said application.

The order impugned does not call for any interference.

C.O .4186 of 2019 is dismissed. No order as to costs.

In view of the dismissal of the revisional application, the connected application for vacating the interim order being CAN 1 of 2020 (Old Can No. 1121 of 2020) has become infructuous and is also dismissed accordingly.

The learned Trial Judge is requested to expedite the hearing of the suit.

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.)