

(01)
08.02.2021
(p.jana)

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

(Via Video Conference)

CO 1375 of 2020

Smt. Rekha Rani Kundu
-versus-
Sri Badal Paul & anr.

Mr. Asis Chandra Bagchi,
Mr. Amitabha Roy,
... for the petitioner.

The defendant in a suit for eviction is the petitioner of the instant revisional application under Article 227 of the Constitution of India which is directed against the order no. 24 dated January 03, 2020 passed by the learned 2nd Bench, Presidency Small Causes Court at Calcutta in Ejectment Suit No. 116 of 2018.

The petitioner in the said suit filed an application for hearing of the said suit on the issue of maintainability on the ground that he was inducted in the suit property by the original owner and the plaintiff being a lessee under the said original owner and on the basis of the said lease deed cannot maintain the suit for eviction.

The learned Trial Judge dismissed the said application holding that the legality of the Deed will be decided at the time of final hearing of the suit.

The issue on which the defendant is seeking a decision on the point of maintainability would obviously be an issue in

the suit and shall be decided on the basis of the evidence to be produced by the parties.

The learned Trial Judge has not committed any error in keeping the said issue in abeyance for the decision at the time of final hearing of the suit.

The order impugned therefore does not call for any interference.

CO 1375 of 2020 is disposed of with the above terms.

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.)