

24.11.2021
Item No.04
Court No.18
AJ.

**C.O. 1569 of 2020
(Via Video Conference)
Sri Haripada Mondal & Ors.
-Vs-
Sri Gouranga Bar & Ors.**

Mr. Prasanta Bishal.

.....for the petitioners.

Affidavit-of-service filed by the learned advocate for the petitioners be kept with the record.

The plaintiffs in a suit for injunction are the petitioners of the present application under Article 227 of the Constitution of India which is directed against order dated July 07, 2020 passed by the 2nd Court of the learned Civil Judge (Junior Division), Contai, District Purba Medinipur in the said suit being Title Suit No. 180 of 2017.

The petitioners are claiming that their father Ananta Kumar Mondal was the recorded Bargadar in respect of the suit land and on his death they have acquired the right of cultivation over the suit land being Bargadars.

The defendants in their written statement have denied the said claim of the petitioners, in view of such dispute being raised, the petitioners prayed that the issue whether the petitioners are the Bargadars in respect of the suit land or not may be referred to the authority under Section 21(3) of the West Bengal Land Reforms Act, 1955 for determination.

The application filed by the petitioners under Section 15A of the said Act of 1955 for determination of the question who amongst the heirs of the alleged deceased Bargadar is entitled to continue with the cultivation over the suit land is pending before the Block Land and Land Reforms Officer, Egra-II, Balighai, District: Purba Medinipur, the opposite party no.5 herein.

The learned Trial Judge, in view of the pendency of the said issue before the said authority by the order impugned, has refused the prayer of the petitioners for reference under Section 21(3) of the said Act of 1955.

The issue as to whether the father of the petitioners was or on his death, who amongst his heirs is the Bargadar in respect of the suit land can well be addressed on the basis of the decision to be made on the pending application of the petitioners under Section 15A of the said Act of 1955.

Under the aforesaid facts and circumstances, it would be an unnecessary exercise to refer the said issue for a decision under Section 21(3) of the said Act of 1955.

This Court, therefore, does not find any illegality and/or infirmity in the order impugned warranting interference.

C.O. 1569 of 2020 is disposed of by directing the Block Land and Land Reforms Officer, Egra-II, Balighai, District: Purba Medinipur, the opposite party no.5 herein, to dispose of the application filed by the petitioners under Section 15A of the said Act of 1955 expeditiously in accordance with law, preferably within a period of one month from the date of communication of this order.

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.)