

**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE**

**01.12.2021
Crt. No.1.
K.B./b.r.
Item No.17.**

C.O. 91 of 2021

***Smt. Kismatiya Oraon*
-Vs-
Sri Kiran Kumar Lama & Ors.
*(Via Video Conference)***

**Mr. Partho Pratim Roy
... For the petitioner.**

The petitioner in this application is the plaintiff no.1.

The opposite parties are the defendants.

Under challenge in this appeal is the Order No.50 dated 8th November, 2019 in Title Suit No.14 of 2013 filed for Declaration, Injunction and Partition.

In the fitness of legal procedure, it was for the defendants to have challenged the rejection of their Order 7 Rule 11 CPC application by the learned Trial Court.

Again in the fitness of legal procedure, the plaintiff No.1 cannot be assumed to have been affected by an order under challenge which has gone in her favour.

In the above view of the matter, the Cause Title of this application is utterly defective.

Without commenting further this Court permits the petitioner to withdraw this application with liberty to file afresh.

Let the original certified copy of the order be handed over to the learned Advocate for the petitioner upon replacing the same with a true copy thereof.

Liberty to mention.

All concerned parties shall act in terms of the copy of the order downloaded from the official website of this Court.

(Subrata Talukdar, J.)