

C.O. No. 114 of 2022

Shyama Prasad Porel
Vs.
Bashanti Porel & Ors.

Mr. Bhagbat Chaudhuri,
Mr. Sk. Toslim Ali ... For the petitioner.

Mr. Bhagbat Chaudhuri, learned advocate for the petitioner files affidavit-of-service, which is taken on record.

In spite of service, none appears on behalf of the opposite parties.

The plaintiff in a suit for declaration/partition and injunction is the petitioner of the present revisional application under Article 227 of the Constitution of India which is directed against Order No. 24 dated January 11, 2022 passed by the learned Civil Judge, (Junior Division) at Amta, District – Howrah in the said suit being Title Suit No. 168 of 2019.

The learned Trial Judge by the order impugned has dismissed an application filed by the petitioner seeking repair of the submersible pump installed in a portion of the suit property which is under possession of the petitioner.

Mr. Chaudhuri submits that the said submersible pump is the only source of drinking water of the plaintiff/petitioner and his family members but it is not in working condition, as such, it requires urgent repairingbut the learned Trial Judge has dismissed the said application on a very technical ground.

Perused the application.

It appears from the schedule of repair appended to the said application that the petitioner has prayed

that the said pump may be allowed to be repaired by removing the pipeline of it.

The learned Trial Judge has dismissed the said application holding that there are some inconsistencies between the statements made in the application and the schedule thereto.

The approach of the learned Trial Judge is too technical. The petitioner is seeking permission to repair the said submersible pump to make it workable, he should be allowed to take all measures required to be taken for the said purpose.

The order impugned, therefore, is set aside, the petitioner is permitted to carry out necessary repair work of the said submersible pump as per schedule appended to the application.

C.O. 114 of 2022 is allowed without any 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.)