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01.03.2022

**C.O. No. 238 of 2022
(Via Video Conference)**

**Abdul Khalek alias Abdul Khaleque
Vs.
Md. Asfakulla Sk. @ Samrat & Ors.**

Mr. Kushal Chatterjee,
Mr. Imdadul Hoque ... For the petitioner.

The revisional application under Article 227 of the Constitution of India is at the instance of the plaintiff in a suit, inter alia, for a decree of permanent injunction and is directed against the order dated January 25, 2022 passed by the learned Additional District Judge, Chanchal, District – Malda in Miscellaneous Appeal No. 29 of 2019 thereby affirming the Order No. 09 dated August 16, 2019 passed by the learned Civil Judge, (Junior Division), Chanchal, District – Malda in Title Suit No. 29 of 2019.

The learned Trial Judge by the Order No. 09 dated August 16, 2019 allowed an application filed by the defendant nos. 1 and 5 under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure thereby restraining the plaintiff from changing the nature, character and possession of the suit property until further order.

The petitioner aggrieved thereby preferred the connected Miscellaneous Appeal and the appeal

Court below by the order impugned has affirmed the order of the learned Trial Judge.

The finding of the appeal Court below in the order impugned in dismissing the appeal is as follows: -

"In this connection this court is relying upon the order of the officer empowered u/s. 18(1) of WBLR Act in Bhagchas Case No. 113 of 1992 dated 24.09.1992 wherein it has been clearly stated that after inquiry it was found that the disputed land used to cultivate by the recorded Bargadar about 15/16 years back then cultivated owner himself and thereafter, it is being cultivated by Mokimuddin for the last 8/9 years as Bargadar and the said Mokimuddin i.e. father of defendant/respondent no. 1 and husband of defendant/respondent no. 5 is cultivating the land on the date of the said order as Bargadar."

The order passed in the aforesaid *Bhagchas* case under Section 18 of the West Bengal Land Reforms Act, 1955 not being challenged in an appeal under Section 19 of the said Act of 1955, the appeal Court below has not committed any error in dismissing the said appeal and affirming the order of the learned Trial Judge.

This Court does not find any reason to interfere with the order impugned. C.O. 238 of 2022 is dismissed 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.)

