

(23)
02.03.2022
(p.jana)

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

(Via Video Conference)
CO No. 430 of 2022

Sri Susanta Chatterjee
-versus-
Sri Prasanta Chatterjee & ors.

Mr. Surya Prasad Chattopadhyay,
Mr. Ankit Chatterjee,
... for the petitioner.

Mr. Sanjoy Saha, ... for the O.P. No. 1.

The revisional application under Article 227 of the Constitution of India is at the instance of the plaintiff in a suit for partition and is directed against the order no. 16 dated February 23, 2022 passed by the 1st Court of learned Civil Judge (Senior Division) at Barasat, District : 24 Parganas (North) in the suit being Title Suit No. 401 of 2018.

The learned Trial Judge by the order impugned has permitted the defendant no. 1, the opposite party no. 1 herein to put plaster on the wall of the residential building on the suit property which is under the occupation of the said defendant and to repair the roof of the staircase and door of the kitchen without changing the nature and character of the said building.

Mr. Surya Prasad Chattopadhyay, learned counsel appearing for the petitioner, submits that the defendant no. 1 under the garb of such repair is actually putting new construction on the suit property.

The nature of repairing work allowed to be carried out by the defendant no. 1 will not change the

nature and character of the suit property, in the event the defendant no. 1, under the pretext of repair put new construction on the suit property, consequence will follow as there is already a subsisting order of injunction in the suit.

Needless to say, that the defendant no. 1 is not entitled to claim any equity in the suit for carrying out the said repair work.

C.O. 430 of 2022 is disposed of with the above observations without any 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.)