

(21)
13.07.2022
(p.jana)

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

CO No. 973 of 2022

Pratima Das & ors.
-versus-
Munia Baji @ Rehana & ors.

Mr. Tarak Nath Halder,
Mr. Sagnik Chatterjee,
... for the petitioners.

Mr. Gautam Chakraborty,
Mr. Megha Thakur, ... for O.P. Nos. 1 & 2.

The revisional application under Article 227 of the Constitution of India is at the instance of the defendant nos. 1, 2 and 3 in a suit for partition and is directed against the order dated January 21, 2022 and February 3, 2022 passed by the learned Civil Judge (Senior Division) at Sealdah, District : 24 Parganas (South) in the said suit being Title Suit No. 61 of 2018.

The petitioners complain that they were dispossessed from the suit property in violation of the subsisting order of injunction passed in the suit and for restoration of their possession, they had filed an application.

The grievance of the petitioners is that the learned Trial Judge allowed the plaintiffs to withdraw the suit without disposing their said application and that too, without any notice to them in an out-date.

Mr. Goutam Chakraborty, learned advocate for the plaintiffs/opposite parties, submits that his clients have no subsisting interest in the suit property as they have already transferred it to a third party. He, however, denied that the petitioners were dispossessed from the suit property.

It appears from the record that pending disposal of the application of the petitioners, the plaintiffs were allowed to withdraw the suit by shifting the date fixed in the suit forward and in the absence of the petitioners, such step offends the pursuit of justice.

The order impugned is therefore, set aside.

The learned Trial Judge is requested to decide the application filed by the plaintiffs for withdrawal of the said suit afresh in accordance with law after giving the petitioners an opportunity of being heard.

CO 973 of 2022 is disposed of with the above terms without any order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the party subject to compliance of all requisite formalities.

(Biswajit Basu, J.)