

01.03.2022
Item No.14
Court No.18
AJ.

C.O. 1122 of 2021
(Through Video Conference)

Sougata Mukherjee & Ors.
-Vs-
State of West Bengal & Ors.

Mr. Rwitendra Banerjee,
Mr. Sougata Mitra,
Mr. Sandip Kundu,
Ms. Ankita Dey.
... for the petitioners.

Mr. Chanchal Kumar Dutta,.
Ms. Krishna Mulick.
....for the opposite party no.4.

Affidavit-of-service filed by the petitioners and
affidavit-in-opposition filed by the opposite parties are
taken on record.

The matter although has appeared under the
heading “**Extension of Interim Order**” but by the
consent of the parties, the revisional application is
taken up for final disposal.

The revisional application under Article 227 of
the Constitution of India is at the instance of the
plaintiffs in a suit for declaration of title over the suit
property and is directed against Order No. 13 dated
February 10, 2021 passed by the 2nd Court of the
learned Civil Judge (Junior Division), Purulia, District-
Purulia in the said suit being Title Suit No. 129 of
2019.

The learned Trial Judge by the order
impugned has allowed an application filed by the
opposite party no.4 under Order I Rule 10(2) of the

Code of Civil Procedure, thereby added the said opposite party as the defendant no 4 in the suit.

The plaintiffs are tracing their title through a deed allegedly executed by the father of the opposite party no.4. The learned Trial Judge fell hook, line and sinker to this fact to hold that the opposite party no. 4 is a necessary party to the suit.

The learned Trial Judge has failed to appreciate that the decree prayed for in the suit, being a decree in the nature of declaration would not bind the opposite party no. 4 and to succeed in the suit, the plaintiffs have to establish the veracity of the deed through which they are claiming title over the suit property.

Therefore, the opposite party no. 4 is neither a necessary nor a proper party to the suit.

The order impugned, for the aforesaid reason, is not sustainable and is accordingly set aside.

C.O. 1122 of 2021 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.)