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14.02.2022
(p.jana)

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION**

(Via Video Conference)
CO No. 2560 of 2019

Mrityunjay Khara
-versus-
Sri Sanjay Gadia & ors.

Mr. Anupam Acharyya,
... for the petitioner.
Mr. Rabindra Narayan Dutta,
Mr. Sibasis Ghosh,
Mr. Nishant Shroff, ... for the opposite parties.

The revisional application under Article 227 of the Constitution of India is at the instance of the defendant no. 1 in a suit for declaration of title and injunction and is directed against the order no. 91 dated July 05, 2019 passed by the 1st Court of learned Civil Judge (Senior Division), Barasat, District: 24 Parganas (North) in the suit being Title Suit No. 613 of 2013.

The petitioner in the said suit filed an application styled under Order VI Rule 2 of the Code of Civil Procedure praying that the documents mentioned in the list of exhibits be expunged since those documents have not been mentioned in the plaint.

The learned Trial Judge by the order impugned has dismissed the said application on contest with costs of Rs. 30,000/- holding that under Order VI Rule 2 of the Code material facts are required to be pleaded in the plaint not the evidence and the said application is aimed to delay the disposal of the suit.

The application is absolutely frivolous, the learned Trial Judge therefore has rightly dismissed the said application.

C.O. 2560 of 2019 is dismissed without any order as to costs.

It is submitted by Mr. R. N. Dutta, learned counsel for the opposite parties that the costs imposed by the learned Trial Judge have not yet been paid.

In the event the said costs is not paid within two weeks from date, the defence of the defendant no. 1 in the suit shall be struck off and the suit shall proceed ex-parte against him.

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

(Biswajit Basu, J.)