

08.03.2022
Item No.15
Court No.18
AJ.

C.O. 2969 of 2019

Md. Nur Mohammad Mistry

-Vs-

Abdul Rahama Mistry & Ors.

Mr. Partha Pratim Roy,
Mr. Dyutiman Banerjee.
....for the petitioner.

Mr. Sounak Bhattacharya,
Mr. Chandranath Sarkar.
....for the opposite parties.

The revisional application under Article 227 of the Constitution of India is at the instance of the plaintiff in a suit for declaration of title and permanent injunction and is directed against order dated April 09, 2019 passed by the 3rd Court of the learned Civil Judge (Junior Division), Baruipur, District 24-Parganas (South) in the said suit being Title Suit No. 12 of 2014.

The defendants/opposite parties in their written statement questioned the maintainability of the suit on the ground that necessary parties have been left out.

The plaintiff responding to the said allegation filed successive applications under Order XI of the Code requiring the defendants to disclose the names of the parties who, according to them, are required to be impleaded in the suit.

The learned Trial Judge by the order impugned has disposed of the said applications by observing that in course of trial of the suit, if it is found that necessary parties have been left out, steps would be taken accordingly.

In view of the nature of the suit, addition of other parties in the suit at this stage prima facie is not necessary.

The carriage of the proceeding is with the plaintiff; therefore it is rightly observed by the learned Trial Judge that in course of the hearing of the suit if the suit is found to be defective for want of necessary parties, it is for the plaintiff to take appropriate steps. The order impugned, therefore, does not call for any interference.

With the above, C.O. 2969 of 2019 is disposed of 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.)