

08.03.2022
(D/L-19)
Ct.-18
(Susanta)

C.O. 3044 of 2019

Sk. Sahensha Ali

-Vs-

Smt. Menaka Jana & Ors.

Mrs. Usha Maiti,

Mr. Sakya Maity,

.... For the Petitioner.

Mr. Rebindranath Mahato,

Mr. Aridtra Sankar Ray,

... For the O. P. Nos. 1 & 2.

The plaintiff in a suit for declaration of his tenancy right over the suit property is the petitioner of the present application under Article 227 of the Constitution of India which is directed against an order No. 205 dated October 30, 2017 passed by the 1st Court of learned Civil Judge (Junior Division), Paschim Midnapore in the said Suit being Title Suit no. 41 of 2001.

The summons upon the pro forma defendant nos. 4 to 7 could not be served in usual manner, as such, the learned Trial Judge by the order impugned has directed the plaintiff to effect service of such summons upon the said defendants by newspaper publication.

Mr. Rabindranath Mahato, learned advocate appearing on behalf of the defendant nos. 1 and 2 submits that the plaintiff is seeking tenancy right over the suit property under his clients, the pro forma defendant nos. 4 to 7 are the heirs and legal representatives of the deceased brother of

the plaintiff, their presence in the suit is not necessary as they are neither necessary nor proper parties to the suit.

He further submits that the issue of service of summons upon the said pro forma defendants is causing unnecessary delay in disposal of the suit. He prays that service of summons upon the said pro forma defendants may be dispensed with at the risk of his clients.

The plaint of the suit does not disclose the reasons for impleading the said pro forma defendants in the said suit, no relief has been sought for against the said defendants either.

The defendant nos. 3, 8 & 9 have already entered appearance and are contesting the suit.

In view of the aforesaid, the order impugned is set aside. Service of summons upon the pro forma defendant nos. 4 to 7 is dispensed with on the prayer and at the risk of defendant nos. 1 and 2 and the suit be treated ready as regards service.

The learned Trial Judge is requested to expedite the disposal of the suit.

C.O. 3044 of 2019 is disposed with the above terms 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.)