

18.08.2022
(D/L-39)
Ct.-18
(Susanta)

C.O. 3514 of 2018

Bimal Kanta Mahanty
-Vs-
Rudra Charan Mahanty & Anr.

Mr. Uttiya Ray,
Mr. Arnab Mondal,

... For the Petitioner.

Md. Younush Mondal,

.... For the Opposite Party No.1.

Ms. Sulekha Mitra,
Mr. Manas Kumar Das,

... For the Opposite Party No.2.

The revisional application under Article 227 of the Constitution of India is at the instance of the plaintiff in a suit for partition and is directed against the order no. 36 dated July 24, 2018 passed by learned Civil Judge (Senior Division), Purulia, in the said suit being Title Suit No. 74 of 2015.

The petitioner and the opposite party no.2 are full-blood brothers. The opposite party no. 2 applied for his addition in the said suit alleging that he has also share in the suit properties.

The learned Trial Judge by the order impugned has allowed the said prayer of the opposite party no. 2 thereby added him as defendant no. 2 in the suit.

Mr. Ray, learned advocate for the petitioner submits that the opposite party no. 2 has no semblance of title in the suit properties, it belongs to the plaintiff and the defendant no. 1. The opposite party no. 2, claiming to have interest in the suit properties applied for his addition in the suit alleging that it was purchased by his father in the name of the plaintiff, but he is not entitled to make out such case under the law as such the learned Trial Judge has committed error of law in adding the opposite party no. 2 in the suit.

Ms. Mitra, learned advocate for the opposite party no. 2, on the other hand, submits that in the plaint the petitioner has

admitted that the land described under item no. (b) of the schedule of the plaint belonged to the father of the plaintiff which is sufficient to allow the prayer of her client.

Heard learned advocate for the parties, perused the materials on record. It is rightly pointed out by Ms. Mitra that in the first line of paragraph 4 of the plaint the plaintiff has stated that the land described in item no. (b) of the schedule appended to plaint was owned and possessed by his father, nonetheless the said statement has been sought to be explained in the subsequent portion of the said paragraph but once the plaintiff has admitted that at least a part of the suit property belonged to his father, addition of his brother in the suit, particularly when it is a suit for partition cannot be faulted inasmuch as all co-sharers of joint properties are necessary parties to a suit for partition.

The order impugned, therefore, does not call for any interference.

C.O. 3514 of 2018 is dismissed with the above terms without any order as to costs.

The added defendant no. 2 is required to file his written statement within thirty days from date.

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

(Biswajit Basu, J.)