

08.08.2022
(D/L-12)
Ct.-18
(Susanta)

C.O. 4067 of 2019

Shrimati Sipra Chanda
-Vs-
Kapil Singh & Ors.

Mr. Rabindranath Mahato,
Mr. Aritra Shankar Ray,
..... For the Petitioner.
Mr. Nilanjan Bhattacharjee,
Mr. Sanjoy Konar,
... For the Opposite Party No. 1.

The matter has appeared in the list, at the instance of the petitioner, for extension of interim order. However, on the consent of the learned counsel for the parties, the revisional application is taken up for final hearing and disposal.

The opposite party no.1 has filed the connected suit for partition being Title Suit No. 127 of 2019 pending before 3rd Court of Learned Civil Judge (Senior Division), Paschim Medinipore.

The plaintiff claiming to be a co-sharer by purchase has filed the said suit for preliminary and final decree of partition of his share in the three suit plots.

The petitioner claiming to be the purchaser of undivided share in two out of the three suit plots, applied for her addition in the suit.

The learned Trial Judge by the order impugned being order No. 12 dated October 01, 2019 has dismissed the said application holding, inter alia that no document is forthcoming from the side of the petitioner to show that she has also some share in

respect of the suit property although in the order impugned it has been recorded that the petitioner, in support of her contention, has filed copy of three purchased deeds.

The said finding, therefore, on the face of it is contrary to the materials-on-record, as such, is not sustainable.

The photocopy of the deeds through which the petitioner is tracing her title over the said two suit plots, are annexed with the revisional application. On perusal of the said deeds, it appears that some portion of the said suit plots are the subject-matter of the said deeds.

The plaintiff is objecting the prayer of the petitioner mainly on the ground that the total land comprised in L.R. suit Plot nos. 221 and 214 is much less than what the petitioner is alleging.

In a suit for partition, all the co-sharers are necessary parties. If there is any defect in title of the petitioner in acquiring share in the said two plots or any misdescription in the purchase deeds of the petitioner regarding the quantum of land comprised in the said plots, the said issues shall be decided in the suit which are completely irrelevant in considering the prayer of the petitioner for her addition in the suit.

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

The petitioner's application for her addition in the suit as defendant is allowed. The cause-title of the plaint be amended accordingly.

Mr. Mahato waives formal service of summons upon his client.

The petitioner is required to file the written statement within the stipulated period of limitation from date.

C.O. 4067 of 2019 is allowed 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.)