

08.08.2022
Item No.20 & 21
Court No.18
AJ.

C.O. 4081 of 2018
I.A. No: CAN 1 of 2021

(Application disposed of)

Sri Biswajit Nandy & Ors.
-Vs-
Sri Amar Biswas & Ors.

with

C.O. 4082 of 2018
I.A. No: CAN 1 of 2021

(Application disposed of)

Sri Biswajit Nandy & Ors.
-Vs-

Sri Bholanath Modak, since deceased,
his heirs and legal representatives
Ms. Mukti Modak & Ors.

Mr. Ayan Banerjee,
Ms. Debasree Dhamali,
Ms. Riya Ghosh.

.....for the petitioners in both
the applications).

Affidavit of service and copy of the notice to the learned advocate representing the opposite parties in the Court below, filed by Mr. Banerjee, be kept with the record.

The opposite parties are not represented in spite of service.

The issue to be decided in both the revisional applications is common, as such they are taken up together for hearing and disposal.

The petitioners are the plaintiffs of Title Suit No.199 of 2012 and defendant nos. 1 to 4 in Title Suit No. 54 of 2018. The said suits are pending before the 1st Court of the learned Civil Judge (Junior Division), Chandernagore, District-Hooghly.

Title Suit no. 199 of 2012 is a suit for eviction whereby the petitioners are praying eviction of their tenant namely Bholanath Modak (since deceased now represented by his heirs), from the suit shop room.

Title Suit No. 54 of 2018 is filed by one Amar Biswas, the opposite party no. 1 in C.O. 4081 of 2018 seeking inter alia, a decree of declaration that he is the joint tenant of the said shop-room with the said Bholanath Modak.

The petitioners filed two separate applications in the said two suits for their analogous trial.

The learned Trial Judge by two separate orders both dated October 03, 2018 has dismissed the said applications holding that the parties to the suit are different, as such the evidence in the said two suits are bound to be different. The said Amar Biswas failed to add himself in the suit for eviction as party defendant, was the other ground for dismissal of the said application of the petitioners.

The said orders are under challenge in these two revisional applications. C.O. 4081 of 2018 is arising out of Title Suit No. 54 of 2018 whereas C.O. 4082 of 2018 is arising out of Title Suit no. 199 of 2012.

The petitioners in their suit for eviction are praying eviction of their tenant in respect of the suit shop room. The plaintiff of the suit for declaration is seeking a declaration of his tenancy right over the selfsame property as joint tenant with the defendant of the suit for eviction, therefore, there will be common issues in both the suits and if those common issues are left to be decided separately, it will not only cause

unnecessary delay in attainment of finality of the decree that may be passed in the suit for eviction, but may also breed multiplicity of proceedings.

The situation could be avoided only by analogous trial of both the suits. This Court is not oblivious to the fact that the stages of the two suits for their age differences, are now standing on a different footing but the said difference cannot loom large to overshadow the requirement of analogous hearing of the said two said suits.

The orders impugned, for the aforesaid reason, are set aside.

The prayer of the petitioners for analogous trial of the said two suits is allowed, in consequence Title Suit No. 54 of 2018(***SRI AMAR BISWAS vs.SRI BISWAJIT NANDI & ORS.***) be heard analogously with Title Suit No. 199 of 2012 (***SRI BISWAJIT NANDI & ORS. vs. BHOLANATH MODAK (SINCE DECEASED) REPRESENTED BY LRS.***)

The learned Trial Judge is requested to expedite the hearing of the said two suits and in doing so, shall not grant any unnecessary adjournment to either of the parties.

C.O. 4081 of 2018 and C.O. 4082 of 2018 are disposed of 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.)