

04.08.2022
(D/L-10)
Ct.-18
(Susanta)

C.O. 4247 of 2019

Sri Prasenjit Paik & Ors.
-Vs-
Sri Amit Adhikari & Ors.

Mr. Partha Pratim Roy,
... For the Petitioner.

The revisional application under Article 227 of the Constitution of India is at the instance of the plaintiffs in a suit for declaration of title and injunction and is directed against the order no. 25 dated November 20, 2019 passed by the 3rd Court of learned Civil Judge (Junior Division), Tamluk, Purba Medinipur in the said suit being Title Suit No. 216 of 2018.

The defendants in their written statement have alleged that there were some earlier proceedings between the predecessor-in--interest of the parties and referred to some documents in support of their said allegation.

The plaintiffs to bring pleadings in plaint to dispute the said case of the written statement, applied for amendment of the plaint.

The learned Trial Judge by the order impugned has dismissed the said application holding that the approach of the plaintiffs is misconceived inasmuch as the defendants are required to prove their case of written statement as well as the documents in support of their case

and the plaintiffs will get the chance of cross-examining the defendant's witness.

The learned Trial Judge is absolutely right in holding so.

To disprove the case sought to be made out in the written statement, the plaintiffs in their evidence is free to challenge the veracity of the said statements and the documents relied on by the defendant in support thereof, besides, the case of written statement has to travel through the tests of cross-examination.

This Court, therefore, does not find any illegality and/or infirmity warranting interference in the order impugned.

C.O. 4247 of 2019 is dismissed with the above terms without any order as to costs.

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.)