

11.01.2022
Item No.5.
Court No.1.
AB

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI
(Via Video Conference)**

C. O. 111 of 2021

Shew Prakash Agarwalla @ Kajaria

Vs

Bharat Chandra Roy & Others

Mr. Nabankur Paul ...for the Petitioner.

Mr. Chanchal Lahiri,
Mr. Arijit Ghosh for the Respdt. 1 to 3.

Mr. Rajat Pal for the Respdt. 4.

Mr. Probal Mukherjee, Sr. Adv,
Mr. Debashish Mukhopadhyay,
Ms. Jeenia Rudra for the Respdt. 6

The petitioner is the plaintiff in Title Suit
No.121 of 2015 renumbered as Title Suit No.352
of 2015.

The petitioner says that on the day which
was fixed for hearing of his petition under Order 5
Rule 20 of the Code of Civil Procedure for
substituted service of the summons on the
defendant nos.4 and 5, the defendant nos.1 to 3
filed a petition under Order 7 Rule 14 of the Code
of Civil Procedure praying for a direction on the
plaintiff to supply copies of documents relied
upon by the plaintiff. The grievance of the
petitioner is that on that very day, the application

of the defendant nos.1 to 3 was allowed without granting an opportunity to the petitioner to effectively oppose the application. This amounted to breach of the principles of natural justice.

I have seen the order under challenge, which was passed on November 29, 2021. The learned Judge has, in my opinion, rightly concluded that the defendants are entitled to have copies of documents relied upon by the plaintiff. This is also warranted by the principles of natural justice.

It is not recorded in the order that the petitioner prayed for time to be able to oppose the application effectively. It is not in dispute that the petition of the defendant nos.1 to 3 was served on the petitioner.

I do not see as to how the petitioner is prejudiced by the order under challenge. It is trite law that the High Court, in exercise of jurisdiction under Article 227 of the Constitution of India, shall not interfere in each and every matter and shall exercise its power under that Article sparingly only in cases of grave illegality or where ends of justice would be defeated unless the High Court interferes.

In the present case, in my opinion, there is no grave illegality or procedural impropriety in

the order under challenge nor has the order caused any prejudice to the petitioner /plaintiff. Natural justice is not a straitjacket formula. The petitioner has been unable to indicate before me as to how he has suffered prejudice by reason of the order under challenge and on what basis, he would have or could have resisted the prayer of the defendant nos.1 to 3 before the learned Trial Court.

I see no reason to interfere with the order under challenge.

C.O. No.111 of 2021 is, accordingly, dismissed.

At this stage, learned Advocate for the petitioner says that his client does not possess the original sale deed in question. In the event, the petitioner wants modification of the order of the learned Trial Judge, he may approach the learned Trial Judge with appropriate application, which will be decided by the learned Trial Judge in accordance with law.

All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Arijit Banerjee, J.)