

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE

CO 163 of 2023

Rima Ghosh & Anr.
Vs.
Smt. Sipra Banerjee & Ors.

Mr. Debasish Chattopadhyay
Mr. Loknath Paul
... For the petitioners

Mr. M. Goswami
Mr. P. Goswami
... For the opposite party no.2

Affidavit of service filed in Court today is taken on record.

Both the learned advocates appearing on behalf of the petitioners and the opposite party no.2 to this revisional application are present.

The order dated 14th November, 2022 passed by the learned Civil Judge (Junior Division), Kalyani, Nadia, in connection with Title Suit No.122 of 2018 has been challenged in this revisional application.

Learned advocate appearing on behalf of the petitioners submitted that the petitioners not being the parties to this suit filed an application under Order I Rule 10 of the Code of Civil Procedure for being added as proforma defendant nos.1 and 2. Learned Judge kept the application pending and dismissed the suit on 14th

November, 2022 for non-compliance of the order of the Court by the plaintiff for not depositing the costs. It is further submitted by the learned advocate for the petitioners that the suit ought not to have been dismissed without disposing the application under Order I Rule 10 of the Code of Civil Procedure.

Learned advocate appearing on behalf of the opposite party no.2 submitted that the opposite party no.2 Dr. Nani Gopal Adhikari has filed one Title Suit, being No.81 of 2020, in respect of the selfsame property and in that suit both the petitioners are parties as defendant nos.1 and 2.

In the aforesaid view of the matter, I find that all the parties to this present suit, being Title No.122 of 2018, are the contesting parties of Title Suit No.81 of 2020 and the Title Suit No.122 of 2018 was dismissed due to non-compliance of Court's order by the plaintiffs.

Thus, I do not find any reason to allow this revisional application with a view to revive the suit where the plaintiffs are not inclined to proceed with the same. Moreover, between the same parties another suit was filed, being Title Suit No.81 of, and the petitioners are contesting the suit by filing their respective written statement.

Considering the aforesaid facts and circumstances, I find hardly any merit in the revisional application. The revisional application stands dismissed.

Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of necessary formalities.

(Bibhas Ranjan De, J.)