

19.9.2023

ct. 236

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C.O. 600 of 2014

CAN 1/2022

Nirmal Sarkar-vs-Kalidas Mahanta & Ors.

Mr. Sarbananda Sanyal
Ms. Poulumi Chakraborty
Ms. Sayantanee Bhattacharjee
...for the O.Ps.

1. Affidavit of service is taken on record.
2. The petitioner is not represented.
3. This application under Article 227 of the Constitution of India challenges the order dated 4th December, 2013 passed by the learned Civil Judge (Junior Division) at Balurghat, Dakshin Dinajpur in Title Suit No. 18 of 2012.
4. Heard Mr. Sarbananda Sanyal, learned counsel representing the opposite party.
5. The opposite party being the plaintiff filed a suit for declaration of title before the learned trial court against Nirmal Sarkar. Nirmal Sarkar, the defendant filed an application under Order 7 Rule 11 of the Code of Civil Procedure seeking rejection of plaint on the ground that the West Bengal Acquisition of Homestead Land for Agricultural Laborers, Artisans and Fishermen Act, 1975 does not permit the eviction of occupier.

6. The defendant is an agricultural laborer. Therefore, the suit cannot be maintained in view of the embargo laid down under Section 12 of the West Bengal Acquisition of Home Stay for Agricultural Laborers, Artisans and Fishermen Act, 1975.

7. It is submitted by Mr. Sanyal that the defendant took plea on the basis of erroneous recording in the revenue record of right. The said error has been removed.

8. Be that as it may since the suit was not for eviction of the defendant, learned trial court was justified in dismissing the application under Order 7 Rule 11 of the Code of Civil Procedure. The order impugned does not warrant any interference.

9. The revisional application is bereft of merit and dismissed.

10. Order of Stay stands vacated.

11. Let a copy of this order be sent down to the learned trial court for information and necessary action.

(Siddhartha Roy Chowdhury, J)