

09.10.2023
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AN/Ct. No.25

CO 3097 of 2023

**Sri Madhab Sen & anr.
versus
Smt. Ara Bhattacharya & anr.**

Mr. R. Bhattacharya
Mr. T. Dhali

... for the petitioners

The petitioner has challenged an order being No. 153 dated 27.07.2023 passed by the learned Civil Judge, Senior Division, 2nd Additional Court at Burdwan in Title Suit No. 75 of 2014. Though it appears from the petition that the order passed in connection with Order I Rule 10 of the Civil Procedure Code is only under challenge but the learned counsel appearing for the petitioner submits that the petitioner has also challenged the order passed under Order XXXIX Rule 7 of the Civil Procedure Code also.

This Court, therefore, permits the learned counsel appearing for the petitioner to make submissions with regard to the order passed by the learned trial court on an application under Order XXXIX Rule 7 of the Civil Procedure Code.

After going through the application filed under Order XXXIX Rule 7 of the Civil Procedure Code and upon hearing the submission of the learned advocate and considering the fact that this suit is for specific

performance of contract, this Court is of the view that the learned judge was right in rejecting the application filed under Order XXXIX Rule 7 of the Civil Procedure Code.

It is well settled that in a suit for specific performance of contract only the contracting parties are necessary parties to such a suit. It appears from the application filed under Order I Rule 10 of the Civil Procedure Code that the plaintiff seeks to add one Manoj Kumar Roy who has allegedly kept some articles over the common space of the suit property. Manoj Kumar Roy is neither a necessary party nor a proper party in a suit for specific performance of contract as rightly held by the learned trial judge.

The impugned order is a reasoned one and therefore, this Court is not inclined to interfere with the decision of the learned trial court.

In the result, the instant civil revisional application stands **dismissed**.

There will be no order as to costs.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Hiranmay Bhattacharyya, J.)