

05.01.2023
SL.09, Ct.2
AJ.

**In the High Court at Calcutta
Circuit Bench at Jalpaiguri
Appellate Side
C.O. 134 of 2022**

**Bachhu Dey alias Indrajit Dey & Anr.
-Vs-
Sri Sukhan Chandra Dey & Ors.**

Mr. Ajoy Kumar Singhanian,
Ms. Madhurima Roy.
.....for the petitioners.

Mr. Subhasish Misra,
Mr. Swarup Das.
.....for the opposite parties.

The present application under Article 227 of the Constitution of India is at the instance of the defendants in a suit for declaration of title and injunction and is directed against Order No. 94 dated May 04, 2022 passed by the Additional Court of the learned Civil Judge (Junior Division), Coochbehar Sadar in Title Suit No. 12 of 2015.

The petitioners are contesting the suit *inter alia* with the defence that they have title over the suit properties by purchase.

The petitioners being apprehensive that without sufficient particulars in their pleadings, the deeds through which they are tracing their title over the suit properties will not be allowed to be admitted in evidence, applied for amendment of their written statement but their said application was dismissed by the learned Trial Judge.

The petitioners thereafter, to bring on record the said particulars, sought leave of the learned Trial Judge to file additional written statement by way of subsequent pleadings under Order VIII Rule 9 of the Code of Civil Procedure.

The learned Trial Judge by the order impugned has refused to grant such leave to the petitioners.

It appears from the record that the defendants in paragraph 16 of their written statement have averred that the defendant nos. 3 and 4 purchased 26 decimals of land in RS Plot No.207 and 199 corresponding to LR Plot No.412 and 416 from the defendant no.6.

Evidence need not be pleaded, in view of the aforesaid pleadings being on record, the defendants need not be apprehensive that the said deeds would not be admitted in evidence for lack of pleadings.

This Court, therefore does not find any reason to interfere with the order impugned.

C.O. 134 of 2022 is disposed of with the above observations. There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)