

10.06.2024
Item No.29, ML
Ct.19
A.J.

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION**

C.O. 112 of 2024

Smt. Ganga Mondal & Ors.

-Vs-

Sankar Mondal & Ors.

Mr. Partha Pratim Roy,
Mr. Sarbananda Sanyal,
Mr. Dyutiman Banerjee.
.....for the petitioners.

Affidavit of service filed on behalf of the
petitioners be kept with the record.

None appears on behalf of the opposite
parties in spite of service.

The instant revisional application under
Article 227 of the Constitution of India is at the
instance of the defendants in a suit for partition
and is directed against the order no. 21 dated
January 08, 2024 passed by the learned Civil
Judge (Senior Division), Tehatta, District : Nadia
in the said suit being Title Suit No. 136 of 2020.

The defendants intended to cite one
Bhagirath Mondal as a witness(D.W.1) on their
behalf .

The learned Trial Judge by the order
impugned has refused to accept the evidence-in-
chief of the said witness on the ground that it has
travelled beyond the pleadings and has directed
to file a fresh evidence-in-chief of the said
witness.

Mr. Roy, learned advocate for the petitioners submits that the learned Trial Judge did not specify which portion of the evidence-in-chief of the said witness has travelled beyond the pleadings.

The order impugned does not specify the defect in the evidence-in-chief of the D.W.1, such specification is necessary for rectification in the fresh evidence-in-chief of the said witness directed to be filed.

The order impugned, therefore is set aside.

The learned Trial Judge shall consider the evidence-in-chief of the D.W.1 afresh and if the same is not accepted for traveling beyond the pleadings, shall specify which portion of it has so travelled.

The exercise in this regard is required to be completed within a period of two weeks from the date of communication of this order.

C.O. 112 of 2024 is disposed of with the above terms without any order as to costs.

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

(Biswajit Basu, J.)