

05.08.2024
Item No.5, ML
Ct.19
A.J.

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

C.O. 127 of 2024

**Ajimunnesa alias Ajimunnessa Bibi & Ors.
-Vs-
Abdul Asraf @ Chandan & Ors.**

Mr. Dhananjay Banerjee,
Mr. Tanmoy Khan,
Mr. Palash Bapari.
...for the petitioners.

The instant application under Article 227 of the Constitution of India is at the instance of the plaintiffs in a suit for declaration of title and permanent injunction and is directed against Order No.229 dated December 02, 2023 passed by the Additional Court of the Learned Civil Judge (Junior Division) at Chinsurah, District: Hooghly in the said suit being Title Suit No.102 of 2012.

The suit was dismissed for default. The petitioners took out an application under Order IX Rule 9 of the Code of Civil Procedure for restoration of it, registered as Misc. Case No.19 of 2023.

The defendants were contesting the said suit with a counter-claim. On such dismissal of the suit, the defendants are proceeding with the counter-claim, the petitioners prayed that the further proceedings of the counter-claim be stayed till the disposal of the said Misc. case.

The learned Trial Judge by the order impugned has refused the said prayer of the petitioners.

The counter-claim is not dependent upon the restoration of the suit, as such the learned Trial Judge has rightly refused the said prayer of the petitioners. This Court does not find any illegality and/or infirmity in the order impugned warranting interference.

The learned Trial Judge, however, is requested to expedite the disposal of the said misc. case.

C.O. 127 of 2024 is thus disposed of 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.)