

21.11.2024
Sl. No. 11
g.b.
Court No.05

C. O. 836 of 2024

Amar Kumar Halder
-Vs-
Smt. Nilima Paul & Ors.

Mr. Partha Chakraborty
Muhammad Obaid
.....For the Petitioner
Mr. Rajdeep Bhattacharya
Ms. Adrija Bhattacharya
....For the Opposite Party

1. Challenging the order dated 19th February, 2024 passed by the learned Civil Judge (Junior Division), 1st Additional Court at Alipore, District – 24 Parganas (South) in Title Suit No. 826 of 2021, whereby the defendant/petitioner's application under Section 151 of the Code of Civil Procedure, inter alia, praying for repair of the suit property had been rejected, the instant revisional application has been preferred.
2. Mr. Partha Chakraborty, learned advocate representing the defendant/petitioner after arguing the matter for some time submits that since the learned court had dismissed the petition on the ground that the petitioner has failed to bring out the clear picture of the suit property, he seeks to proceed before the learned trial court by filing an appropriate application so as to enlighten the Court as regards the state of affairs as prevailing in the suit property. His only apprehension at this stage is if the application for repair is filed along with an application for local inspection, the same may not be entertained by the learned Judge by reasons of the order dated 19th February, 2024.
3. This matter has come up upon service on the opposite parties.
4. The plaintiffs/opposite parties are representing in Court.

5. Having heard the learned advocates for the respective parties, I am of the view that defendant/petitioner's apprehension is entirely unfounded.
6. Upon perusal the order impugned it would transpire that the ground for rejection of such application is for failure of the defendant to appropriately enlighten the court as regards the actual state of affairs prevalent in the suit property. Since the petitioner now seeks to enlighten the court by filing an appropriate application by carrying out a local inspection, I am of the view that if the petitioner is able to demonstrate on the basis of the materials on record by filing an appropriate application and on the basis of such inspection that the petitioner is entitled to an order, it would be for the court to consider the same. It is too early to pre-judge the same.
7. With the above observation, the revisional application stands disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties expeditiously after completion of all necessary formalities.

(Raja Basu Chowdhury, J.)