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09.12.2024
Ct. No.05
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IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE

CO 868 of 2024

Wasique Ahmed & Ors.
Vs.
Nasima Begum & Ors.

Mr. Sibnath Ganguly
Mr. Argha Banerjee
... For the petitioners

1. The instant revisional application has been filed challenging the order dated 13th December, 2023 passed in Title Suit No.11 of 2012 by the learned Civil Judge (Junior Division), 1st Court, Sealdah, South 24-Parganas, whereby the petitioners prayer for analogous hearing of the instant suit with that of the Ejectment Case No. 73 of 2019 and No.74 of 2019 both pending before the learned Court of 1st Civil Judge Junior Division, Sealdah had been rejected.
2. It is the plaintiffs/petitioners' case that the plaintiffs have filed the instant suit against the opposite parties, inter alia, praying for eviction and recovery of khas possession as also for mesne profit. The opposite parties are contesting the said suit by filing written statement.
3. The petitioners contend that the opposite party no.2 has filed two Ejectment Suits, being Ejectment Suit No.73 of 2019 which is pending before the Court of

the learned 1st Civil Judge (Junior Division) at Sealdah against the opposite party no.3 and two other persons (first suit) as also another Ejectment Suit before the Court of the learned 1st Civil Judge (Junior Division) at Sealdah, which has been registered as Ejectment Suit No.74 of 2019, second suit. The said second suit has been filed by the opposite party no.2 against three other persons in respect of the selfsame property which form subject-matter of suit property in Title Suit No.11 of 2012.

4. According to Mr. Ganguly, learned advocate representing the petitioners, since the opposite party no.2, who is the defendant in the instant suit, had filed the aforesaid two Ejectment Suits by holding out to be an owner in respect of the said property and since the same infringed upon the petitioners' right, title and interest over the suit property, the petitioners had filed an application under the provision of Order I Rule 10(2) of the Code of Civil Procedure, praying for addition of party in above two Ejectment suits.
5. The above applications filed by the petitioners were rejected by the learned Civil Judge (Junior Division), 1st Court, Sealdah. Being aggrieved, two separate revisional applications were filed which were registered as CO 3359 of 2022 and CO 3360 of 2022. By two separate judgment and orders, both dated

18th September, 2023, a Co-ordinate Bench of this Court was of the view that the petitioners were neither necessary nor proper parties and, as such, did not find any perversity in the order impugned. It, however, appears that in the aforesaid order, an observation had been made by the Co-ordinate Bench that the petitioners had not made any prayer for analogous hearing of both the suits and by placing reliance on such observation, Mr. Ganguly contends that the plaintiffs/petitioners had filed an application before the learned Trial Court for analogous hearing of the aforesaid three suits. Incidentally, by a judgment and order dated 13th December, 2023, the learned Judge by recording that the suits in question were not amongst the same parties, the issues involved in these suits were not same and they did not also involve any common question of law or fact nor did they arise out of the same transaction or series of transactions, and further by recording that they are not connected with each other had rejected the said application.

6. Being aggrieved, the instant revisional application has been filed.
7. I find that it is not in dispute that the parties in the three suits are not same. It is also not in dispute that the above suits do not raise any common question of law or fact or arise out of the same transaction or same series of transactions or otherwise connected in

some manner, neither there is any identity of cause of action in the above three suits.

8. Although, Mr. Ganguly, learned advocate appearing on behalf of the petitioners, by placing reliance on the judgment delivered by the Hon'ble High Court at Telangana in the case of ***Amireddy Amrutha Devi @ Amruthamma & Ors. v. Cherupally Prakash*** reported at **2024 (1) ICC 516 (Telan.)** would submit that object behind the consolidated hearing of suits is done for convenience of the parties, to save time, having regard to the same set of evidence required to be proved and to avoid conflict of judgments and having regard thereto, he would submit that the learned Judge had acted with material irregularity in dismissing the above application. I am however of the view that unless the parties are substantially the same and there is similarity of issues arising for decision in the suit and unless, the same evidence would be required to be lead twice over, or there is any scope of conflict of decision, ordinarily no direction for consolidated hearing of suit can be issued.
9. In the instant case, I find that the petitioners' suit is for eviction of the opposite parties, on the death of the predecessor of the opposite parties, Md. Yusuf, who was a licensee without licence fees. In the first suit filed by the opposite party no.2, the opposite party no.2 has sought for eviction of the defendants in such suit

whom the opposite party no.2, claims to be the sons of late Golam Rasul who during his life time was a tenant under the opposite party no.2. The second suit filed by the opposite party no.2 is against the legal heirs of late Amir Ali who during his lifetime was a tenant under the opposite party No.2.

10. It is, therefore clear that in the above three suits the cause of action is entirely different. There is no common question of law to be decided, save and except the subject-matter of the suit property being the same. The issues in the respect of the suits are also not common. It is also unlikely that same documents, evidence would be required to be proved. It is also not the case of the petitioners that a decision in one of the suits would have the effect of non-suiting the other plaintiffs or would act as *res judicata*. The learned Trial Judge by discussing the issues raised had rejected the application.
11. I do not find any irregularity in the order passed by the learned Civil Judge (Junior Division), 1st Court, Sealdah, South 24-Parganas for less any jurisdictional error.
12. The revisional application, accordingly, fails and the same is accordingly dismissed.
13. There shall be no order as to costs.
14. All parties shall act on the basis of a server copy of this order duly downloaded from the official website of this Court.

(Raja Basu Chowdhury, J.)