

12.11.2024
Ct. No. 5
Sl. No.183
Saikat

**IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side**

CO/1067/2024

**Kashinath Ghosh & Ors.
Vs.
Sri Srikumar Ghosh & Ors.**

Mr. Arunesh Pathak, Adv.
Mr. Aniruddha Singha Roy, Adv.
...For the Petitioners

1. Challenging the order dated 1st September, 2022 passed by the learned Civil Judge (Jr. Division), 1st Court, Bolpur, in T.S. No.1362 of 2014, the instant revisional application has been filed.
2. The petitioners challenge the aforesaid order to the extent of allowing the application under Order 39 Rule 4 of the Code of Civil Procedure filed by the plaintiffs on 13th February, 2018 whereby the plaintiffs had been permitted to carry out maintenance and repair work on the wall of the suit premises without changing the dimension and position of such wall. With a further direction on the plaintiffs to file a compliance report.
3. It is submitted by the learned advocate appearing on behalf of the petitioner that since, the suit property is undivided and unpartitioned no order for constructing the wall at the suit property could have been passed.

4. Having heard the learned advocate for the petitioner I find that the learned Judge by his order No.31 dated 1st September, 2022 has only allowed the application for carrying out maintenance and repair work on the wall at the suit premises without changing the dimension and position of such wall with a further direction to submit compliance report in support thereof by an affidavit on the next date of hearing.
5. Having regard thereto, I find there is no scope for interference of the order as state above.
6. The petitioner has failed to identify any procedural irregularity, far less any jurisdictional error or any illegality committed by the learned Judge.
7. The revisional application is accordingly dismissed.
8. However, there will be no order as to costs.

(Raja Basu Chowdhury, J.)