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Ct. 19
16.07.2024

In The High Court At Calcutta
Civil Revisional Jurisdiction
(Appellate Side)
C.O. 1247 of 2024

**Abu Jafar Molla @ Mian (since deceased) his legal
heirs and representatives – Marjina Bibi & Ors.**

Vs.

Md. Julfikar Molla @ Miah & Anr.

Mr. Sounak Bhattacharya,
Mr. Sandip Das,
Mr. Sounak Mandal,
Mr. Abhirup Halder ... 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, which is directed against the Order No. 197 dated July 19, 2023 passed by the 1st Court of learned Civil Judge, (Junior Division) at Diamond Harbour, District – 24 Parganas (South), in the said suit being Title Suit No. 126 of 2007.

The plaintiffs are tracing their title through a Deed of Gift. The defendant no.1 is one of the donees of the said Deed of Gift. The plaintiffs are alleging that the donor had no reason to bequeath the suit property to the defendant no. 1, the said defendant since was a deed writer, by practicing fraud, had inserted his name in the said Deed of Gift, after execution but before registration of it.

The plaintiffs had filed an application praying appointment of an expert to ascertain as to whether the name of the defendant no.1 was in the said Deed of Gift at the time of its execution.

The learned Trial Judge by the order impugned, has dismissed the said application holding *inter alia* that it is not in dispute that the name of the defendant no. 1 was there at the time when the said document was placed for registration, as such appointment of an expert, as prayed for, is not necessary.

To prove the said case, appointment of an expert to ascertain as to when the name of the defendant no.1 was inserted in the said Deed of Gift is neither necessary, nor such appointment can resolve the issue.

Therefore, this Court does not find any reason to interfere with the order impugned. C.O. 1247 of 2024 is dismissed without any order as to costs.

Parties to act on the server copy of this order duly downloaded from the official *website* of this Court.

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

(Biswajit Basu, J.)