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Ct. 19
16.07.2024

In The High Court At Calcutta
Civil Revisional Jurisdiction
(Appellate Side)
C.O. 1261 of 2024

Nil Ratan Mistry & Anr.

Vs.

**Amulya Mistry, since deceased, his legal heirs –
Menoka Mistry & Ors.**

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 of title and permanent injunction, which is directed against the Order No. 282 dated March 12, 2019 passed by the 1st Additional Court of learned Civil Judge, (Junior Division) at Diamond Harbour, District – 24 Parganas (South), in the said suit being Title Suit No. 76 of 2006.

The learned Trial Judge by the order impugned has refused the prayer of the petitioners for appointment of an expert to verify the L.T.I. appearing in the Deed through which the plaintiffs are claiming title over the suit property on the ground that there is no admitted L.T.I. in the records of the vendor of the said Deed.

Mr. Bhattacharya, learned advocate for the petitioners submits that such prayer was once allowed, therefore, similar prayer should not have been refused subsequently.

In the absence of an admitted L.T.I, the verification of a disputed one cannot be done by an Expert. The earlier order, being erroneous, the learned Trial Judge is not obliged to follow it.

The order impugned therefore, does not call for any interference. C.O. 1261 of 2024 is dismissed as such 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.)