

S/L 5
26.6.2024
Court No.19
SD

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

CO 2066 of 2024

Hafizuddin
Vs.
Khos Md. & Ors.

Mr. Partha Sarathi Bhattacharyya
Mr. Raju Bhattacharyya

...for the Petitioner.

This revisional application under Article 227 of the Constitution of India is at the instance of the defendant no.1 in a suit for partition and is directed against the Order No.34 dated February 28, 2024 passed by the learned Civil Judge (Senior Division), Islampore, Uttar Dinajpur in the said suit being Partition Suit No.27 of 2018.

The learned Trial Judge by the order impugned has dismissed an application filed by the petitioner under Order VII Rule 11 of the Code of Civil Procedure.

The petitioner had questioned the maintainability of the suit on the ground that the Civil Court has no jurisdiction to adjudicate the right of the parties to get the compensation awarded in the acquisition proceeding.

The connected suit is a suit for partition, the issue sought to be canvassed under the said application is not germane in the suit, as such, the learned Trial Judge has rightly refused to reject the plaint of the said suit on the said ground.

Mr. Bhattacharyya, learned senior advocate for the petitioner submits that the exclusive property of the

petitioner has been brought to the hotchpotch of the joint property to claim the compensation awarded for acquisition of the said property. If that be the position, it is always open for the petitioner to approach the learned Trial Judge for exclusion of his exclusive property from the hotchpotch of the joint suit property. The prayer for rejection of the plaint of the suit on the said ground is a misconceived action.

CO 2066 of 2024 is disposed of with the above observations 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 of all requisite formalities.

(Biswajit Basu, J.)