

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION**

C.O. 2133 of 2024

Shri Kamal Narayan Tewari @ Tripathi

-Vs-

Vijay Kumar Padamchand Gajway & Anr.

Mr. Tapan Kumar Dey,
Mr. Rakesh Roy,

... For the Petitioner.

The instant application under Article 227 of the Constitution of India is at the instance of the defendant in a suit for declaration of title and injunction which is directed against order No.44 dated April 12, 2022 passed by the learned Civil Judge (Junior Division), Kharagpur, District-Paschim Medinipur in the said suit being Title Suit no. 46 of 2021.

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 holding *inter alia* that the points taken by the plaintiffs in the suit for their relief can only be decided by evidence on trial and the documents filed on behalf of the defendant cannot be looked into at this stage.

This Court does not find any illegality and/or infirmity in the order impugned, inasmuch as law is well settled that in considering an application under Order VII Rule 11 of the Code, only the averments in the plaint are relevant consideration.

C.O. 2133 of 2024 is dismissed with the above terms without any order as to costs.

However, the learned Trial Judge is requested to expedite the disposal of the suit.

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.)