

24.09.2024
Item No.10 DL
Ct.19
A.J.

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

C.O. 2430 of 2024

Madhuri Maiti & Ors.

-Vs-

Pratima Kar & Ors.

Mr. Partha Sarathi Bhattacharyya,
Mr. Bhaskar Seth.
.....for the petitioners.

The plaintiffs in a suit for declaration that the defendant no.1 is not the legally married wife of the deceased brother of the plaintiffs are the petitioners of the instant application under Article 227 of the Constitution of India.

The said suit being Title Suit No. 212 of 2017 is pending before the 2nd Court of the learned Civil Judge (Junior Division), District- Purba Medinipur.

The learned Trial Judge by the order dated July 02, 2018 had dismissed the application filed by the plaintiffs under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure with a finding that the defendant no. 1 has produced the certificate of her marriage with the brother of the plaintiffs and has also produced documents to prove her possession over the suit property.

The plaintiffs, aggrieved by the said order, have preferred the connected Misc. Appeal No.49 of 2018.

The Appeal Court below by the order impugned dated January 22, 2024 has dismissed the said appeal.

In view of the concurrent findings of both the Courts below, this Court is not inclined to interfere with the order impugned.

The learned advocate for the petitioners submits that the defendant no.1 is alienating the suit property during the pendency of the suit, needless to say, such transfers are subject to the doctrine of *lis pendens*.

C.O. 2430 of 2024 is dismissed without any order as to costs.

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

(Biswajit Basu, J.)