

25.07.2024  
Item No. 15, DL  
Ct.19  
A.J.

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

**C.O. 2585 of 2024**

**Sri Saibal Roy  
-Vs-  
Sri Dulal Bag & Ors.**

Mr. Amiya Kumar Dutta,  
Mr. Swadesh Priya Ghosh.  
.....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 permanent injunction and is directed against Order No.92 dated November 23, 2023 passed by the learned Civil Judge (Junior Division) at Kalyani, District : Nadia in the said suit being Title Suit No. 139 of 2015.

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

The petitioner has questioned the maintainability of the suit on the ground that the decree on the basis of which the plaintiffs are claiming title over the suit property was passed in a suit in which the petitioner was not a party, as such, the said decree is not binding upon him.

The ground taken in the application under Order VII Rule 11 of the Code may be one of the defences of the defendant in the suit, which he is

required to prove in course of the trial but the same does not come within the purview of Order VII Rule 11 of the Code, the order impugned therefore, does not call for any interference.

C.O. 2585 of 2024 is dismissed as such 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.)**