

07.08.2024
(D/L-20)
Ct.-19
(Susanta)

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

C.O. 2802 of 2024

Uttam Shaw & Anr.

-Vs-

Ansuman Mullick

Mr. Amitava Ghosh,

Mr. S. K. Santra,

... For the Petitioners.

The Defendants in a suit for eviction of trespassers are the petitioners of the instant revisional application under Article 227 of the Constitution of India which is directed against Order No.15 dated February 21, 2024 passed by the learned Judge, Bench X, City Civil Court, Calcutta in *Title Suit No. 163 of 2022*.

The petitioners had filed an application under Order VII Rule 11 of the Code of Civil Procedure praying rejection of the plaint of the said suit on the ground that the suit property since is comprised in *Thika* tenancy, under Section 21 of the West Bengal Thika Tenancy Act (Acquisition and Regulation) Act, 2001 (hereinafter referred to as the "*said Act of 2001*" in short) the Civil Court has no jurisdiction to entertain the said suit.

The learned Trial Judge by the order impugned has dismissed the said application holding that the averments of the plaint do not disclose that the suit property is comprised in *Thika* tenancy.

The suit since is for eviction of trespasser, even if the suit property is comprised in *Thika* tenancy, it is not coming within the purview of Section 8 of the said Act of 2001, consequently the bar under Section 21 thereof does not operate in respect of the present suit.

However, in course of the trial of the suit, if an issue crops up which is required to be adjudicated by the controller, the bar under Section 21 of the said Act of 2001 would operate.

The order impugned, for the aforesaid reason, does not call for any interference.

C.O. 2802 of 2024 is disposed of with the above terms 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.)