

13.08.2024
Item No.12, DL
Ct.19
A.J.

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

C.O. 2824 of 2024

**Uttam Kumar Kundu alias Mondal & Anr.
-Vs-
Sunil Kundu & Ors.**

Mr. Partha Pratim Roy,
Mr. Anirban Das,
Ms. Poulomi Chakraborty.
.....for the petitioners.

The petitioners are the defendants to a suit for partition, they are challenging the order dated April 24, 2024 passed by the 2nd Court of the learned Civil Judge (Senior Division) at Rampurhat, District : Birbhum in the said suit being Title Suit No. 25 of 2020.

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 *inter alia* on the ground that since the plaintiffs are alleging that the defendants have no right, title and possession over the suit property, they are neither necessary nor proper parties to the suit as such a suit for partition against them is not maintainable.

The learned Trial Judge by the order impugned has dismissed the said application.

In a suit partition determination of right, title and interest of the parties to the suit over the

suit properties is the condition precedent for declaration of their share therein as such the plaintiff may add a party who intend to deny his such right, title and interest but the addition of the said party by itself would not automatically render the suit not maintainable, however, a party so added may apply for striking out his name from the array of defendant in the suit.

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

C.O. 2824 of 2024 is disposed of with the above observations 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.)