

20.08.2024
Item No. 17, DL
Ct.19
A.J.

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

C.O. 2880 of 2024

**Sri Sanat Karmakar
-Vs-
Smt. Santa Nag & Anr.**

Mr. Debraj De.

.....for the petitioner.

The present application under Article 227 of the Constitution of India is at the instance of the defendant in a suit for declaration and is directed against order dated June 05, 2024 passed by the 3rd Court of the learned Civil Judge (Junior Division) at Alipore, District: 24-Parganas (South) in the said suit being *Title Suit No. 381 of 2024*.

The learned Trial Judge by the order impugned has dismissed an application filed by the defendant, the petitioner herein under Order VII Rule 11 of the Code of Civil Procedure praying rejection of the plaint of the said suit on the ground that it is undervalued.

Learned advocate for the petitioner submits that the plaintiff, to avoid the agreement for sale, has filed the connected suit; in the said agreement, the admitted consideration price since is Rs.70,000/-, the suit should not have been valued at Rs.2,500/- only; the plaint therefore is liable to be rejected being grossly undervalued; in support of his such contention, he places reliance on the decision of learned Single Judge of this Court in the case of ***Asit Baran Chaudhury***

& Anr. –Vs– Profulla Chandra Bose reported in ***AIR 1984 Calcutta 366.***

Heard learned advocate for the petitioner, perused the materials-on-record.

In terms of Section 7(iv)(b) of the West Bengal Court-fees Act, 1970, to obtain a declaratory decree or order where consequential relief is prayed, the plaintiff is entitled to value the suit according to the amount of which the relief sought is valued in the plaint, subject to the provisions of Section 11 thereof.

The above referred judgment is entirely misplaced inasmuch as the said decision is on the provision of Section 7(vi)(a) of the said Act of 1970.

Be that as it may, the lack of proper valuation does not readily attract the provision of Order VII Rule 11 of the Code of Civil Procedure.

The order impugned therefore does not call for any interference.

C.O. 2880 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.)