

19.09.2024
(D/L-29)
Ct.-19
(Susanta)

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

C.O. 3335 of 2024

Shyamali Das & Anr.

-Vs-

Tutul Roy

Mr. Arnab Mukherjee,

Mr. Sana Naaz,

... For the Petitioner.

By the consent of the parties, the matter is taken up beyond regular Court hours.

The plaintiff in a suit for declaration is the petitioner of the instant application under Article 227 of the Constitution of India.

The said suit being *Title Suit no. 243 of 2019* is pending before the 1st Court of learned Civil Judge (Junior Division) at Sealdah, District: 24 Parganas (South).

The defendant had filed an application under Order VII Rule 11 of the Code of Civil Procedure praying rejection of the plaint of the aforementioned suit on the ground that the relief claimed is undervalued.

The learned Trial Judge by the order dated October 05, 2023 had disposed of the said application permitting the plaintiff to make good of the deficit court fees; pursuant thereto, the plaintiff had put in the highest court fees of Rs. 50,000/-.

The plaintiff, by a subsequent application prayed that after disposal of the suit, if it is found that excess Court fees was paid, he may be permitted to withdraw the same.

The learned Trial Judge by the order impugned being order dated June 06, 2024 has refused to grant such permission to the petitioner.

The prayer of the petitioner is prematured, inasmuch as in the event, after the completion of trial, the excess Court fees is adjudged the petitioner is always at liberty to make prayer for refund of the same.

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

C.O. 3335 of 2024 is dismissed 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.)