

23.09.2024
(D/L-18)
Ct.-19
(Susanta)

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

C.O. 3365 of 2024

Kader Sardar & Ors.

-Vs-

Mosaraf Sardar & Ors.

Mr. Dipankar Mandal,

Mr. G. N. Imrohi,

... For the Petitioners.

The defendant Nos. 1-4 in a suit for declaration are the petitioners of the instant application under Article 227 of the Constitution of India which is directed against order No. 11 dated March 22, 2024 passed by the 1st Court of learned Civil Judge (Junior Division) at Berhampore, District: Murshidabad, in the said suit being *Title Suit no. 77 of 2023*.

The petitioners by an application under Order VII Rule 11 of the Code of Civil Procedure had prayed for rejection of the plaint of the said suit on the ground that the suit was filed without serving notice under Section 80 of the Code upon the *Collector*, Murshidabad and the *Assistant Engineer*, P.W.D., Government of West Bengal, the defendant nos. 5 & 6 respectively.

The plaintiff took out an application under Order I Rule 10(2) of the Code praying that the names of the said defendant nos. 5 & 6 be

expunged from the array of the defendants in the said suit. The learned Trial Judge by the order impugned has allowed the said application and consequently has dismissed the said application under Order VII Rule 11 of the Code.

The order impugned though does not call for any interference, but it is always open for the defendants to canvass in course of trial that the parties so expunged are necessary parties to the suit.

C.O. 3365 of 2024 is dismissed with the above observations 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.)