

22.02.2024
Item No.2
gd/ssd

CO/3393/2023
BISWAJIT PAHARI
VS
SWAPAN NARAYAN MANNA & ORS.

Mr. Arindam Banerjee,
Mr. Subhojit Saha,
Mr. Aniket Chaudhury,
Ms. Nandini Sharma
..for the petitioner.

As prayed for by the learned advocate for the petitioner, leave is granted to the learned advocate-on-record of the petitioner to amend the cause-title of this civil revisional application by incorporating the left out parties here and now.

This application under Article 227 of the Constitution of India is at the instance of the defendant no.3 in a suit for permanent injunction and is directed against the Order No.29 dated 29th May, 2023 passed by the learned Civil Judge (Junior Division), Kakdwip in Title Suit No.21 of 2020.

By the order impugned the application under Order VII Rule 11 read with Section 151 of the Code of Civil Procedure stood rejected.

The opposite party no.1 filed a suit for permanent injunction.

In such a suit the defendant no.3/petitioner herein filed an application under Order VII Rule 11(d) read with Section 151 of the Code of Civil Procedure praying for rejection of the plaint on several grounds.

One of such grounds taken in the application was that the suit is barred under the provisions of Section 21 of the West Bengal Land Reforms Act, 1955. It was further stated in the said application that the plaint do not disclose a cause of action.

The learned trial judge after considering the provisions laid down under Order VII Rule 11 of the Code of Civil Procedure, particularly clause (d) thereof and after taking into consideration the law declared by the Hon'ble Supreme Court from time to time rejected the said application under Order VII Rule 11(d) of the Code of Civil Procedure.

When the matter was taken up on 21.2.2024 Mr. Banerjee, learned advocate appearing for the petitioner submitted that the plaint fails to disclose a cause of action. He also submitted that the suit is barred under Section 21 of the West Bengal Land Reforms Act, 1955. In course of his argument Mr. Banerjee submitted that the plaintiff is guilty of suppression of material facts that the plaint of the earlier suit filed by the present plaintiff stood rejected under the provisions of Order VII Rule 11 of the Code of Civil Procedure.

However, when this matter was taken up today, Mr. Banerjee submits that he has been instructed by his client not to press the aforesaid points in this revisional application. Mr. Banerjee

submits that the petitioner may be allowed to withdraw this revisional application with liberty to raise all points in the pleadings to be filed by the defendant.

In view of such submission, CO 3393 of 2023 stands dismissed as not pressed with liberty to the petitioner to raise all points both on facts as well as on law in the pleadings to be filed in Title Suit No.21 of 2020.

(HIRANMAY BHATTACHARYYA, J.)