

AD15
20.05.2024
Court. No. 19

CO 4373 of 2023

Sri Samir Sarkar.

vs.

Sri Somen Sarkar and Ors.

Mr. Dyutiman Banerjee

Mr. Arka Ranjan Bhattacharya

... for the petitioner

The revisional application arises out of an order dated October 10, 2023 passed by the Learned Civil Judge, (Junior Division) 3rd Additional Court, Alipore, South 24-Parganas, in Title Suit No. 1653 of 2021.

By the order impugned, the Learned Civil Judge, (Junior Division) 3rd Additional Court, Alipore, rejected an application under Order 7 Rule 11 of the Code of Civil Procedure inter alia holding that the ground for rejection of the plaint could not be established. The defendant No.1/petitioner filed the application seeking rejection of the plaint on the ground of non-compliance of Section 80 of the Code of Civil Procedure.

According to the petitioner/defendant No.1, the Deputy Director of Refugee Relief and Rehabilitation department, Government of West Bengal, although impleaded as a defendant in the suit, no notice under

Section 80 of the Code of Civil Procedure had been served. Thus, the suit was barred by law.

From the plaint case, it appears that a declaration that the plaintiff No.1,2 and 3 and the defendant No.1 and 2 were the joint successors to the property allotted by the Refugee Relief and Rehabilitation department, had been prayed for. It was contented by the plaintiffs that the plaintiffs and the defendant No. 1 and 2 had 1/5th share each, in the suit property. Such suit property had been measured by the Refugee Relief and Rehabilitation department. The defendants were trying to encroach into the property in occupation of the plaintiffs. Hence, the suit was filed for declaration and permanent injunction. This Court does not find any necessity to interfere with the order impugned as no allegations have been levelled against the government official and there are no claims against the government official. Section 80 of the Code of Civil Procedure would not be applicable in this case.

The revisional application is dismissed without any interference.

(Shampa Sarkar, J.)