

08.03.2024
SL.31, Ct.2
AJ.

**In the High Court at Calcutta
Circuit Bench at Jalpaiguri
Civil Revisional Jurisdiction**

C.O. 43 of 2024

**Smt. Matilda Rai
-Vs-
Stepehn Rai & Ors.**

Mr. Sandip Mandal,
Mr. Abhilash Mittal,
Mr. Shivam Jaiswal.
...for the petitioner.

The plaintiff in a suit for recovery of possession being Title Suit No. 10 of 2023 is pending before the learned Civil Judge, Junior Division at Kurseong, District : Darjeeling, is the petitioner of the instant application under Article 227 of the Constitution of India.

The petitioner is aggrieved by the Order No.9 dated February 20, 2024 whereby the learned Trial Judge has decided to test the maintainability of the suit first.

Mr. Mandal, learned Advocate for the petitioner submits that the Court has questioned the maintainability of the suit not the defendant but it is not clear to the plaintiff on which ground such issue has been raised.

This Court does not find any irregularity in the decision of the learned Trial Judge to address the issue of maintainability of the suit first but to meet the said issue the plaintiff is entitled to know the exact ground.

The plaintiff is at liberty to approach the learned Trial Judge within a week from date to get a clarification regarding the ground on which the said issue has cropped up.

C.O. 43 of 2024 is, thus, disposed of with the above observations.

There shall be no order as to costs.

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.)