

C.O. 136 of 2023

Gopal Karmakar
-versus-
Pocha Ghosh & Anr.

Ms. Baisali Ghosal
... for the petitioner

This application under Article 227 of the Constitution of India is at the instance of the defendant and is directed against an Order no. 80 dated 3rd December, 2022 passed by the learned Civil Judge (Junior Division), 4th Court, Howrah in Title Suit No. 272 of 2013.

By the order impugned the application under Order 7 Rule 11(d) of the Code of Civil Procedure stood rejected. The learned trial judge while deciding the application under Order 7 Rule 11(d) of the Code of Civil Procedure observed that the moot question involved is whether the defendant is a licensee or not. The learned trial judge also observed that the suit for eviction of licensee in respect of a thika property is maintainable before the civil court. Such observations are prima facie observation while disposing of an interlocutory application under Order 7 Rule 11(d) of the Code of Civil Procedure.

It has been submitted by the learned advocate for the petitioners that the cross-examination of the plaintiff's witness have already been commenced, in view thereof, this Court is not inclined to interfere with the impugned order.

The learned Civil Judge (Junior Division), 4th Court, Howrah is requested to dispose of Title Suit No. 272 of 2013 as expeditiously as possible without granting any unnecessary adjournment to either of the parties.

Accordingly, C.O. 136 of 2023 stands disposed of.

No order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Hiranmay Bhattacharyya, J.)