

A. 315
30.06.2025
Court No.6
BP

C.O. 315 of 2025

Sri Partha Nandy & Anr.
-versus-
Sri Murari Samanta & Anr.

Mr. Sounak Mondal
Ms. Monalisa Das
... for the petitioners

This application under Article 227 of the Constitution of India is at the instance of the plaintiffs and is directed against an order being no.79 dated 8th January, 2025 passed by the learned Judge, 13th Bench, City Civil Court at Calcutta in Title Suit No. 2322 of 2011.

By the order impugned the application filed by the petitioners under Section 151 of the Code of Civil Procedure praying for analogous hearing of the two suits stood rejected.

The learned advocate appearing for the petitioners submits that the issues involved in Title Suit No. 586 of 2017 and Title Suit No. 2322 of 2011 are more or less identical and the documents which are to be used in evidence will also be same.

Originally one Ashok Nandy since deceased along with Sri Tarak Nath Dey filed a suit for recovery of khas possession, damages and mesne profits being Title Suit No. 2322 of 2011 against one Sri Murari Samanta. During the pendency of the said suit Ashok Nandy died and upon his death Biva Nandy, Partha Nandy and Mamani Das

were substituted in place and stead of the deceased plaintiff no.1. Subsequently Biva Nandy since deceased filed a Title Suit No. 586 of 2017 against Tarak Nath Dey, Rupa Samanta as principal defendants and Sarmistha Ghosh was impleaded as a proforma defendant. Title Suit No. 586 of 2017 is a suit for declaration that the defendant has no right to transfer his undivided half share of the joint leasehold property being schedule "A" to any third party and for a declaration that the purported deed of sub-lease dated 27th May, 2017 is void, inoperative and the same is not binding upon the plaintiff and for other reliefs.

Upon going through the plaint of Title Suit No. 2322 of 2011 and Title Suit No. 586 of 2017, this Court is of the considered view that the issues involved in both the suits cannot be said to be same and identical. Merely because of the fact that some documents which may be tendered in evidence in one of the suits may also be required to be tendered as an evidence in the other suit cannot be the sole ground for passing an order for analogous hearing.

This Court is of the view that in the event an order of analogous hearing is passed complications will arise at the time of trial of both the suits. The learned trial judge was right in observing that the parties of both the suits are different and the schedule of the suit premises are also different. The learned trial judge assigned cogent

reasons for rejecting the application under Section 151 of the Code of Civil Procedure.

This Court does not find any reason to interfere with such order.

At this stage Mr. Mondal, learned advocate appearing for the petitioners submits that 26th August, 2025 has been fixed for evidence of P.W-1. He submits that the direction be passed upon the learned Judge, 13th Bench, City Civil Court at Calcutta to dispose of suit expeditiously.

In the light of the submissions made by the Mr. Mondal, learned advocate for the petitioners, C.O. 315 of 2025 stands disposed of without interfering with the order impugned but by requesting the learned Judge, 13th Bench, City Civil Court at Calcutta to make an endeavour to dispose of Title Suit No. 2322 of 2011 as expeditiously as possible without granting any unnecessary adjournments to either of the parties.

There shall be, however, 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.)