

D/L- 8
17/07/2025
Ct. No.-6
Aritra

C.O. 422 of 2024
With
CAN 1 of 2025
Haridas Thakur
Vs.
Gokul Sardar & Ors.

Mr. Tapash Kr. Mondal
Mr. Pratick Roy Chowdhury
...for the petitioner

Mr. Jayanta Das
Ms. Soumita Ghosh
....for the opposite parties

This application under Article 227 of the Constitution of India is at the instance of the plaintiff and is directed against an order being No.61 dated December 12, 2023 passed by the learned Civil Judge (Jr. Div.), Kalyani, District-Nadia in Title Suit No.8 of 2016.

By the order impugned the application under order 23 Rule 1(3) of the Code of Civil Procedure stood rejected on cost and a date was fixed for further examination of P.W.1.

The learned trial judge rejected the said application on the ground that the plaintiff has not made out any specific or sufficient ground on the basis of which he has sought for withdrawal of the suit.

The learned advocate appearing for the petitioner draws the attention of the Court to the plaint which is annexed at page 11 of the civil revision application and

the reliefs claimed therein. The learned advocate for the petitioner, on instructions, submits that such a suit ought to have been valued according to the market value of the property. He further submits that the market value of the property is not less than Rs.2 lakhs and the learned trial judge cannot try the instant suit for lack of pecuniary jurisdiction. He further submits that several parties, namely, one Haridas Sardar, State of West Bengal through the Collector Nadia District and Block Development Officer, Chakdah was impleaded as party defendants in the said suit but the State of West Bengal and the Block Development Officer are neither necessary nor proper party in such a suit. He further submits that there is a defect in the khatian number as stated in the body as well as in the schedule of the said plaint. He submits that for such reasons the petitioner sought to withdraw the said suit.

After going through the application under Order 23 Rule 1(3) of the Code of Civil Procedure, this Court finds that no specific ground was stated in such application. The learned trial judge was right in not allowing the petitioner to withdraw the suit with liberty to file afresh in the absence of disclosure of formal defects. This Court, therefore, does not find any infirmity with the order impugned. However, without making any comment on the aforesaid submission made by the learned advocate for the petitioner as to whether

the same can be said to be a ground for withdrawal of the suit with liberty to file afresh, this Court is inclined to grant a liberty to the petitioner to file a fresh application stating the specific grounds for withdrawal of the suit. If such an application is filed, the learned trial judge shall consider and dispose of the same in accordance with law after giving an opportunity to the opposite parties to deal with the same in accordance with law.

With the above observations, CO 422 of 2024 and the connected application being CAN 1/2025 stands disposed of.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Hiranmay Bhattacharyya, J.)