

11.03.2025
Sl. No. M/L102
g.b.
Court No.06
265719

CO 501 of 2025

Anita Bachhar & Ors.
-Vs-
Kishori Mohan Biswas & Ors.

Mr. Tapash Kr. Bhattacharya
Mr. Aviroop Bhattacharya
.....For the Petitioner

This application under Article 227 of the Constitution of India is at the instance of the plaintiffs and is directed against the order being Order No.67 dated 12th November, 2024 passed by the learned Civil Judge (Junior Division), 1st Court, Ranaghat, Nadia in Title Suit No. 72 of 2016.

By the order impugned the application under Order 23 Rule 1(3) of the Code of Civil Procedure stood rejected.

Mr. Bhattacharya, learned advocate for the petitioners submits that since a specific objection was raised in the written statement that the State of West Bengal and the Refugee Rehabilitation Department are necessary parties, the petitioners here filed the application under Order 23 Rule 1(3) of the Code of Civil Procedure praying for withdrawal of the said suit. After some argument Mr. Bhattacharya submits that though the Block Land and Land Reforms Officer and the Refugee Rehabilitation Department have been impleaded as

Proforma Defendants but no relief has been claimed against such officers. As such there is no requirement to issue a notice under Section 80 of the Code of Civil Procedure.

Mr. Bhattacharya further submits that the Block Land and Land Reforms Officer and the Refugee Rehabilitation Department are not necessary parties in the suit and, therefore, liberty be given to the petitioners to take appropriate steps in that regard. However, it appears from the order impugned that the learned Trial Judge has recorded that if there is any defect in this suit, it can be cured during the proceeding of the case and for that reason, withdrawing the suit with liberty to re-file the suit will only cause harassment and frustrate the process of law.

Since liberty has already been granted to the petitioners by the impugned order to cure the defects, if any, this court is not inclined to interfere with the order impugned.

With the above direction, CO 501 of 2025 stands disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties expeditiously after completion of all necessary parties.

(Hiranmay Bhattacharyya, J.)