

A-1247
05.08.2025
Court No.6
BP

C.O. 463 of 2024

Sri Swapan Manna & Anr.
-versus-
Ruma Mukherjee & Ors.

Mr. Tanmoy Mukherjee
Ms. Fatima Hasan
Mr. Arindam Sadhukhan
... for the petitioners

Mr. Ganesh Prasad Shaw
Mr. Sayan Dev Kumar
..for the opposite parties

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. 28 dated 20th December, 2023 passed by the learned Judge, 10th Bench, City Civil Court at Calcutta in Title Suit No. 1052 of 2021.

By the order impugned the application under Section 151 of the Code of Civil Procedure praying for repairing of the suit premises stood rejected.

Mr. Mukherjee, learned advocate appearing for the petitioners submits that the learned trial judge rejected the application by a totally non-speaking order. He submits that the suit premises requires urgent repairs and the schedule of repairing has been specifically stated in the application under Section 151 of the Code of Civil Procedure.

The learned advocate appearing for the opposite parties submits that the petitioners are not tenants in respect of the suit property. He submits that the petitioners are the trespassers in respect of the suit property. He submits that since the petitioners could not establish their legal right to stay in the said property the learned trial judge was right in rejecting the application for repairs.

Heard the learned advocates for the respective parties and perused the materials placed.

The petitioners filed a suit claiming their tenancy right and the opposite parties have filed a counter claim praying for eviction of the petitioners from the suit property. It is not in dispute that the petitioners are in possession of the suit property.

After going through the schedule of repairing as well as the averments made in the application under Section 151 of the Code of Civil Procedure as well as the photographs appended to this civil revisional application, this Court is of the considered view that the suit premises require urgent repairs.

Considering the nature of repairing as specifically stated in paragraphs 3 and 4 as well as the schedule of repairing, to the mind of this Court, the same if allowed, would not amount to changing the nature and character of the suit property. It further appears that the learned trial judge rejected the application for repairing by a

totally non speaking order. Accordingly, the impugned order is set aside. The application for repairing stands allowed. However, the petitioners shall not change the nature and character of the suit property while undertaking the repairing work.

It is however made clear that the petitioners shall not claim any equity in respect of the suit property by virtue of this order.

For the reasons as aforesaid. C.O. 463 of 2024 stands allowed.

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.)