

18.02.2025
Court No. 06
Item No. 23
Cp

C.O. 555 of 2025

Sk. Nauser & Anr.
Vs.
Sk. Chand & Ors.

Mr. Somnath Ghoshal
Mr. Sahid Uddin Ahmed
Mr. Md. Nizamuddin Molla
.....for the petitioner.

This application is at the instance of the defendants and is directed against an order dated January 30, 2025, passed by the learned Civil Judge (Junior Division), 2nd Court at Alipore, in Title Suit No. 214 of 2005. By the order impugned, the application under Section 21 of the West Bengal Thika Tenancy (Acquisition and Regulation) Act, 2001, stood rejected.

Learned advocate appearing for the petitioner submits that the suit property is a thika property and, therefore, the instant suit is not maintainable before the civil court.

It is not in dispute that an application under Order 7 Rule 11 of the Code of Civil Procedure for rejection of the plaint was rejected and the matter was carried before this Hon'ble Court in C.O. 3945 of 2022. The civil revisional application also stood dismissed.

Record reveals that the suit is at the stage of recording evidence of the defendants witness. On a query of the Court, the learned advocate appearing for the petitioner, in his usual fairness, submits that an issue has already been framed for maintainability of the suit. In view thereof, this Court is of the considered view that the learned Trial Judge was right in holding that the maintainability of the suit will be decided at the time of final disposal of the suit in the form of an issue.

This Court, therefore, is not inclined to interfere with the order impugned.

The learned Civil Judge (Junior Division), 2nd Court, Alipore, South 24-Parganas, is however requested to dispose of the suit as expeditiously as possible without granting any unnecessary adjournments to either of the parties.

C.O. 555 of 2025 stands disposed of accordingly.

Urgent photostat certified copy of this order, if applied for, shall be furnished to the applicant at an early date, upon compliance of usual formalities.

(HIRANMAY BHATTACHARYYA, J.)