

Court No. 6
(265719)

02.08.2025
(AD 19)
(S. Banerjee)

CO 541 of 2024

Uma Rani Maiti & Ors.
Vs.
Shyamali Maity & Anr.

Mr. Balaram Pandit
Mr. Krishna Deo Das

...for the petitioners

Re: CAN 1 of 2025

This is an application for expeditious hearing of
CO 541 of 2024.

The said application stands allowed and the civil
revision application is being taken up for immediate
consideration.

Re: CO 541 of 2024

This application under Article 227 of the
Constitution of India is at the instance of the
plaintiffs and is directed against an order dated
November 29, 2023 passed by the learned Civil Judge
(Jr. Division), 1st Court at Contai, Purba Medinipur in
Title Suit No. 156 of 2022. By the order impugned the
application under Order 1 Rule 10(2) of the Civil
Procedure Code, filed by the opposite party no. 2
herein, stood allowed.

Learned advocate appearing for the petitioners submits that the suit property is an undivided dwelling house of a joint family. He further submits that the opposite party no. 1 could not have transferred portion of such property to the opposite party no. 2.

The petitioners herein filed a suit for declaration that the plaintiffs are the cosharers having half share in the A schedule property and for permanent injunction restraining the defendant/opposite party no. 1 from transferring, alienating and/or dispossessing the plaintiffs from peaceful enjoyment of the A schedule property or any portion thereof.

During the pendency of the suit, the opposite party no. 1 transferred her right, title and interest in favour of the opposite party no. 2. The opposite party no. 2 thereafter filed an application for being added as a party defendant in such a suit.

Learned advocate appearing for the petitioners submits that the opposite party no. 2 is a stranger purchaser and, therefore, he should not be added as a party defendant in the said suit.

It is well-settled that in case of assignment, creation or devolution of any interest during the pendency of the suit, the person against whom such

interest has come or devolved, is a necessary party in such suit.

For such reason, this court is of the considered view that the learned trial judge was right in allowing the prayer of the opposite party no. 2 for being added as a party defendant in such suit.

The order impugned does not suffer from any infirmity warranting interference under Article 227 of the Constitution of India.

Accordingly, CO 541 of 2024 stands dismissed.

(Hiranmay Bhattacharyya, J.)