

21.04.2025
Item No.1
PG/KS
Ct. No.446

C.O. 943 of 2025

Sri Krishna Das & Anr.

Versus

Tapas Das & Anr.

Mr. Sudarshan Ghosh

.....For the Petitioners

1. In this matter, the notice of this application was sent to the opposite parties and to that extent, an affidavit of service has been filed before this Court, the same is taken on record. Ample opportunity was given to the opposite parties. However, none appears on behalf of the opposite parties.
2. The instant revisional application is directed against an order being No.19 dated 24th February, 2025 passed by learned Civil Judge (Junior Division), 3rd Court at Baruipur, District – South 24 Parganas in Title Suit No.290 of 2023 (Sri Krishna Das & Anr. Vs. Tapas Das) with a prayer for setting aside the said order since the applicant, who filed the application under Order 1 Rule 10(2) of the Code of Criminal Procedure has no right or interest or *locus standi* in this case.
3. It is the case of the petitioner that the plaintiff filed a suit praying for declaration that the Deed of Gift dated 26th September, 2022 being Deed No.6058 of 2022 registered in A.D.S.R., Joynagar, South 24 Parganas is void *ab initio*.

4. During pending of the suit, the defendant i.e. the opposite party no.1 entered appearance and filed the written statement. Furthermore, during pendency of the said proceeding, the present opposite party no.2 filed one application under Order 1 Rule 10(2) of the Code of Civil Procedure for addition of party on the ground that the said applicant's legal right is involved regarding the ownership of the said disputed property, which is the subject-matter of the Deed of Gift. It was claimed that a pre-emption case was filed in the year 2007 pertaining to Plot No.46, which is also the subject-matter of the suit filed by the plaintiff/petitioner. Such proceeding was filed by the petitioner/plaintiff against the present O.P. No.2/the applicant and an appeal is still pending. Furthermore, the plaintiff and the O.P. No.1 in collusion has fabricated a cause of action to file the suit where the presence of the applicant is necessary. The written objection to the same was also filed denying the case of the said petitioner and also denied that the applicant is a necessary party to the said impugned deed or he had any right, title and interest in the suit plot and he is completely a stranger, hence not a necessary party.
5. The learned Trial Court upon hearing the parties was pleased to allow such application vide Order No.19 dated 24.02.2025 with the observation that the dispute between the plaintiffs

and the applicant in respect of the Schedule – B to the suit property exists and, therefore, there is a possibility of affecting the interest of the applicant being, opposite party no.2 in the instant proceeding i.e. Supravat Das.

6. On a careful perusal of the said contents of the petition filed under Order 1 Rule 10 (2) of the Code by the opposite party no.2 and the written objection filed by the present petitioners/plaintiffs and considering the fact that an appeal is still pending arising out of a pre-emption case between the present opposite party no.2 being the applicant and the plaintiffs, certainly the possibility of affecting the right of the parties cannot be ruled out. The purpose to strike out the name of a party or to add a party to settle all the issues and to do, this Court must be satisfied that the presence of such party would be necessary in order to enable the Court to effectively and completely adjudicate upon and settle all the question involved in a suit.
7. Accordingly, this Court is also of the view that there is no reason at this stage to interfere with the order passed by the learned Trial Court, whereby the application for addition of party has been allowed as he appears to be a necessary party in the instant proceeding.
8. Accordingly, I find no reason to interfere with the said order.

9. Hence, the revisional application being, C.O. 943 of 2025 stands dismissed.

10. No costs.

11. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(Chaitali Chatterjee (Das), J.)