

Court No. 6  
(265719)

**16.04.2025**  
(AD 8)  
(S. Banerjee)

CO 1061 of 2025

Md. Hasunath Laskar & Anr.  
Vs.  
Ali Akbar Molla & Ors.

Mr. Arun Naskar

...for the petitioners

This application under Article 227 of the Constitution of India is at the instance of the plaintiff and is directed against an order dated February 6, 2025 passed by the learned Civil Judge (Jr. Division), 4<sup>th</sup> Court at Serampore, Hooghly in Title Suit No. 108 of 2024. By the order impugned the application under Section 151 of the Code of Civil Procedure, filed by the petitioners herein, stood rejected.

The petitioners herein claim that the suit property was purchased by the father of the plaintiffs and the proforma defendant namely Hanif Laskar from the recorded owner, namely Akbar Ali Molla. On January 5, 2022 by virtue of a deed of family settlement the proforma defendant nos. 1 to 3 transferred their rights in the property in favour of the plaintiffs. The plaintiffs claimed that they were in peaceful possession of the suit property and all on a sudden on February 20, 2024 at about 4 p.m. the

defendants along with some musclemen came to the shop room of the plaintiff no. 1 and told him that the defendant no. 1 sold the property to the defendant no. 3. The plaintiffs were directed to handover peaceful possession of the suit property to the defendant nos. 1 and 2.

The petitioners herein filed an application under Section 151 of the CPC praying for rejection of the written statement filed by the defendant nos. 1 and 2. In the said application it was specifically stated that the plaintiffs collected the copy of the registered sale deed, being deed no. 8174 of the year 2020 and after collecting the copy of the said registered sale deed it appeared to the plaintiff that the defendant nos. 1 and 2 were allegedly shown as purchaser in the said deed who purchased the property through power of attorney holder of the power of attorney which is suppressed by the defendants. It was further stated that Akbar Ali Molla did not execute the power of attorney.

Learned advocate for the petitioners took this Court through the power of attorney which has been annexed to this civil revisional application and draws the attention of the Court to a statement made therein wherefrom it appears that Akbar Ali Molla, who is the seller of the plaintiff's father, did not

execute the said power of attorney. It has been specifically stated in the said application under Section 151 of the CPC that the defendant nos. 1, 2 and 3 in conspiracy with each other, have forged and fabricated a sale deed and is claiming title in respect of the suit property.

Learned advocate for the petitioners submits that since it appears from the materials on record that the deed is a manufactured and forged one, this Court should reject the written statement.

The petitioners have filed a suit for declaration of their title in respect of an immovable property by virtue of inheritance as well as under a deed of family settlement. The petitioners claim that their father purchased the suit property from one Akbar Ali Molla.

The dispute as to the title, has to be adjudicated at the time of trial and the same cannot be decided at the interlocutory stage in an application under Section 151 of the CPC.

Learned advocate appearing for the petitioners places reliance upon a decision of the Hon'ble Supreme Court in the case of *S. P. Chengalvaraya Naidu -Vs.- Jagannath*, reported in AIR 1994 Supreme Court 853 in support of his contention that a person whose case is based on false statement, has

no right to approach the Court and he can be summarily thrown out at any stage of the litigation.

In the said reported case, preliminary decree for partition in respect of certain properties was obtained by suppressing the fact of relinquishment of right in such property by executing a release deed. It was held that non-production and non-mentioning of the release deed at the trial tantamounts to playing fraud on the Court.

In the case on hand, the petitioner seeks to reject the written statement.

The said decision cannot come to the aid of the petitioners in the case on hand. The order impugned does not suffer from any infirmity warranting interference under Article 227 of the Constitution of India.

In view thereof, CO 1061 of 2025 stands dismissed. It is, however, made clear that it will be open to the petitioners to raise all points at the trial of the instant suit.

**(Hiranmay Bhattacharyya, J.)**