

D/L- 10
01/05/2025
Ct. No.-6
Aritra

C.O. 1436 of 2025

**Shri Mangobinda Das & Anr.
Vs.
Shri Sudhangsu Sekhar Das & Ors.**

Mr. Krishna Dasgupta
Mr. Surajit Maity
Ms. Mandira Barman
....for the petitioner

This application under Article 227 of the Constitution of India is at the instance of the defendant and is directed against an order being No.16 dated February 28, 2025 passed by the learned Civil Judge (Jr. Div.), 1st Court at Contai in Title Suit No.186 of 2021.

By the order impugned the application under Order 7, Rule 11 of the Code of Civil Procedure stood rejected.

The grounds raised in the application under Order 7, Rule 11 of the Code of Civil Procedure is that the sons of the present plaintiff had filed one partition suit against the present defendant in 2017 in respect of the selfsame suit property which was dismissed for default.

The learned advocate appearing for the petitioner submits that in view thereof the instant suit is not maintainable in the eye of law.

After going through the grounds raised in the application under Order 7, Rule 11 of the Code of Civil Procedure, this Court is of the considered view that such

issues cannot be decided in an application under Order 7, Rule 11 of the Code of Civil Procedure. The same has to be adjudicated by trial on evidence. To the mind of this Court, the learned trial judge was right in rejecting the application under Order 7, Rule 11 of the Code of Civil Procedure.

At this stage the learned advocate appearing for the petitioner submits that a direction be passed upon the learned trial judge to dispose of the suit expeditiously. He further submits that the petitioner has already filed the written statement.

In the light of the aforesaid submission made by the learned advocate for the petitioner, CO 1436 of 2025 is disposed of without interfering with the order impugned and by requesting the learned Civil Judge (Jr. Div.), 1st Court at Contai to dispose of the Title Suit No.186 of 2021 as expeditiously as possible without granting any unnecessary adjournments to either of the parties.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Hiranmay Bhattacharyya, J.)