

D/L- 12
02/05/2025
Ct. No.-6
Aritra

C.O. 1500 of 2025

Kumaresh Das & Ors.

Vs.

Bulirani Mitra & Ors.

Mr. Samiran Mandal

Mr. Abhinaba Dan

....for the petitioner

This application under Article 227 of the Constitution of India is at the instance of the plaintiff and is directed against an order dated January 6, 2024 passed by the learned Civil Judge (Sr. Div.), Bankura in Title Suit No.267 of 2024.

By the order impugned the application filed by the petitioner herein under Order 1, Rule 10(2) of the Code of Civil Procedure stood rejected.

The learned advocate appearing for the petitioner submits that the instant suit is a suit for partition and since the defendants have engaged one Raghunath Chatterjee, proprietor of Raghunath Chatterjee Construction for making construction on the suit property, such person is a necessary party in such a suit.

It is elementary that in a suit for partition only the parties who have unity of title and possession in respect of a property are only necessary parties in such a suit. It is not the case of the petitioner that Raghunath Chatterjee has a share in the joint property.

Merely because of the fact that Raghunath Chatterjee has been engaged by the defendant to make construction, such party cannot be said to be a necessary or proper party in a partition suit.

For such reason, this Court is not inclined to accept the submission of the learned advocate for the petitioner that Raghunath Chatterjee is a necessary or proper party in such a suit. The learned trial judge assigned cogent reasons for rejecting such application. This Court is not inclined to interfere with the order impugned.

Accordingly, CO 1500 of 2025 stands dismissed.

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.)