

D/L- 13
02/05/2025
Ct. No.-6
Aritra

C.O. 1502 of 2025

**Lutfunnesha Begum
Vs.
Arif Hossain & Ors.**

Mr. Manas Kumar Das

....for the petitioner

This application under Article 227 of the Constitution of India is at the instance of the defendant No.5 in a suit for partition and is directed against an order dated March 7, 2025 passed by the learned Civil Judge (Sr. Div.), Kandi, District-Mushidabad in Partition Suit No.193 of 2018.

By the order impugned the application filed by the defendant No.5 praying for permission to construct a small house in the suit property stood rejected.

The learned advocate appearing for the petitioner submits that he has obtained a sanction plan from the concerned local body and the petitioner has also given an undertaking that he shall not claim any equity in respect of such construction. The instant suit is a suit for partition.

Before allowing a person to raise any construction it has to be considered as to what is the extent of the share of such co-sharer in the suit property.

The learned advocate appearing for the petitioner, in his usual fairness, submits that in the application

under Section 151 of the Code of Civil Procedure the specific details and measurement of the proposed construction were not indicated.

For such reason, this Court does not find any infirmity in the order impugned warranting interference under Article 227 of the Constitution of India. However, this order shall not prevent the petitioner from approaching the learned trial judge in accordance with law.

Accordingly, CO 1502 of 2025 stands disposed of.

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.)