

M/L 104
14.01.2025
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IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

CO 1505 of 2024

Laxmikanta Maity & Anr.
Versus
Syed Tohidul Mir alias Bapi Mir & Anr.

Mr. Sankar Paul
Mr. Imtiaz Ahmad
Ms. Kumari Shipra Roy
... For the petitioners.

1. Challenging the order no.9 dated 21st February, 2024 passed by the learned Civil Judge (Junior Division) 2nd Court at Uluberia in Title Suit No. 106 of 2023, the instant revisional application has been filed.
2. It appears that the defendants had filed an application under Order VII Rule 10 of the Code of Civil Procedure, 1908 (hereinafter to referred to as the “Code”) for return of the plaint together with an application under Order XIV Rule 2 of the Code for framing a preliminary issue to decide whether the Court has the pecuniary jurisdiction to try the suit.
3. The learned Judge by the order impugned taking into consideration Section 11 and Section 7 of the West Bengal Court Fees Act, 1970 (hereinafter referred to as the “said Act”) had ordered that a enquiry should be conducted under Section 11 of the said Act prior to disposal of the application

dated 4th January, 2024 filed under Order VII Rule 10 of the Code. The plaintiff/petitioners are aggrieved by the aforesaid order since the learned judge had *suo moto* ordered an enquiry into the valuation and that order does not mention to what extent the enquiry is required to be conducted by the learned Court. He would submit that the dispute is only in relation to a strip of land measuring 600 sq. ft. and having regard thereto the plaintiff/petitioner had determined the valuation of the suit to be Rs.100. He would submit that the learned Court should be directed to confine the enquiry under Section 11 of the said Act to the aforesaid 600 sq. ft. of land forming part of the schedule C.

4. Having heard the learned advocate for the petitioner I am of the view that ordinarily the valuation that is to be determined is on the basis of the relief sought for. Since the suit is for declaration of ownership in respect of schedule A and recovery of khas possession in respect of schedule C property, I am of the view that the same is required to be determined in the light of Section 7(iv)(b)) and 7(vi) of the said Act. Since the learned Court is yet to decide on the valuation by making an enquiry under Section 11 of the said Act, I am of the view that it is

entirely premature at this stage for the petitioner to approach this Hon'ble Court.

5. In view thereof, the revisional application fails and is accordingly dismissed.

6. There shall be no order as to costs.

(Raja Basu Chowdhury, J.)