

D/L- 18
23/05/2025
Ct. No.-6
Aritra

C.O. 1835 of 2025

Sri Swapan Kumar Basak
Vs.
Smt. Manju Bhattacharjee

Mr. Tapos Kumar Bhattacharya
Ms. Gargi Acharya
Mr. Sibendra Nath Chattopadhyay
Ms. Priyanka Chakroborty
....for the petitioner

Mr. Suman Kr. Dutta, Sr. Adv.
Mr. S.M. Rakshit
Mr. Ratul Das
....for the opposite party

On the prayer of the learned advocate for the petitioner leave is granted to the learned advocate on record to correct the typographical errors which has crept in the cause title in the civil revision application, here and now.

This application under Article 227 of the Constitution of India is at the instance of a tenant in a suit for eviction filed under Section 6(1) of the West Bengal Premises Tenancy Act, 1997 and is directed against an order being No.19 dated March 10, 2025 passed by the learned Judge, 3rd Bench, Presidency Small Cause Court at Calcutta in Ejectment Suit No.120 of 2023.

By the order impugned the application filed by the petitioner herein for framing an issue with regard to the maintainability of the suit as a preliminary issue and to

decide the same prior to the hearing of the other issues stood rejected.

Mr. Bhattacharya, learned advocate appearing for the petitioner submits that the petitioner has filed a suit for specific performance of contract and submits that that the tenancy has merged with the superior interest of ownership in respect of the suit property.

Order 14 Rule 2 sub-rule (2) states that where issues both of law and of fact arise in the same suit, and the Court is of opinion that the case or any part thereof may be disposed of on an issue of law only, it may try that issue first if that issue relates to – (a) the jurisdiction of the Court, or (b) a bar to the suit created by any law for the time being in force.

After going through the averments made in the application filed by the petitioner more particularly paragraph 8 thereof on which much emphasis has been laid by Mr. Bhattacharya at the time of hearing of the civil revision application, this Court is of the considered view that a issue with regard to maintainability of the suit cannot be formed as a preliminary issue as it does not relate to jurisdiction of the court or that the suit is barred by any law for the time being in force.

The learned trial judge was right in not framing a preliminary issue with regard to maintainability of the suit.

This Court does not find any reason to interfere with the ultimate conclusion arrived at by the learned trial judge.

For such reason the impugned order is not interfered with by this Court. Accordingly, CO 1835 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.)