

Court No. 6
(265719)

16.06.2025
(AD 14)
(S. Banerjee)

CO 1955 of 2025

Jorge Majhi
Vs.
Bithika Dey & Ors.

Mr. Hemanta Kumar Das

...for the petitioner

This application under Article 227 of the Constitution of India is at the instance of the 23rd defendant and is directed against order dated April 30, 2025 passed by the learned Civil Judge (Jr. Division), 2nd Court at Barrackpore in Title Suit No. 295 of 2019. By the order impugned the application under Order 7 Rule 11 Civil Procedure Code stood rejected.

Learned advocate appearing for the petitioner submits that several co-sharers have not been joined as parties in the instant suit. He further submits that a previous suit is pending between the parties and such fact has been suppressed in the plaint of the instant suit.

After going through the plaint this court finds that the plaint discloses a cause of action. In the application under Order 7 Rule 11 Civil Procedure Code, the petitioner has stated the names of several

persons who, according to the petitioner, are necessary parties in the suit. The persons, who according to the petitioner are necessary parties, are cosharers or not requires an adjudication on facts. Whether the alleged suppression of a pending suit between the parties amounts to material suppression, also cannot be decided at the stage of Order 7 Rule 11 of the Civil Procedure Code, and the court has to confine itself within the statements made in the plaint while deciding an application under Order 7 Rule 11 of the Code.

The learned trial judge was right in holding that Order 7 Rule 11 of the Civil Procedure Code stands attracted only when from the statement made in the plaint the suit appears to be barred by any law. The learned trial judge assigned cogent reasons for rejecting this application.

This court does not find any infirmity in the said order warranting interference under Article 227 of the Constitution of India.

Accordingly, CO 1955 of 2025 stands dismissed. There shall be, however, no order as to costs.

(Hiranmay Bhattacharyya, J.)