

Court No. 6
(265719)

12.06.2025
(AD 30)
(S. Banerjee)

CO 1979 of 2025

Sri Malay Kundu
Vs.
Aloke Kumar Das & Ors.

Mr. Chittapriya Ghosh
Mr. Somesh Kumar Ghosh
Ms. Priyanka Saha

...for the petitioner

This application under Article 227 of the Constitution of India is at the instance of an applicant of an application under Order 1 Rule 10(2) of the Civil Procedure Code and is directed against the order dated April 29, 2025 passed by the learned Civil Judge (Jr. Division) 3rd Court at Serampore, Hooghly in Title Suit No. 623 of 2024. By the order impugned the application for addition of party filed by the petitioner herein, stood rejected.

Mr. Ghosh, learned advocate appearing for the petitioner submits that the petitioner is the developer of the property in question and, therefore, he has interest in the suit property and for such reason the petitioner is a necessary party in the suit.

The instant suit is for eviction of a trespasser filed by the opposite party nos. 1 to 4 against the opposite party no. 5 herein. In such a suit it is for the opposite party no. 5 to establish his right, if any, to remain in possession in the suit property.

The plaintiff being the *dominus litis* has a right to choose the person against whom he wants to proceed against. The petitioner being a third-party cannot compel the plaintiff to proceed against him.

After going through the materials on record and after hearing the learned advocate for the petitioner, this court is of the considered view that the petitioner herein is neither a necessary party nor a proper party in the suit for eviction of a trespasser filed by the opposite party nos. 1 to 4 against the opposite party no. 5 herein.

It is well-settled that addition of a party should not be allowed if the same would result in enlarging the scope of the suit. If the petitioner is allowed to be added as a party-defendant in the instant suit, the scope of the instant suit would undoubtedly get enlarged. To the mind of this court, the learned trial judge was right in rejecting the application for addition of party.

For all the above reasons, this court is not inclined to interfere with the order impugned.

Accordingly, CO 1979 of 2025 stands dismissed.

(Hiranmay Bhattacharyya, J.)