

23.
13-06-2025
(Ct. no.06)
debajyoti
(Bench ID
265719)

**IN THE HIGH COURT AT CALCUTTA
Civil Revisional Jurisdiction
APPELLATE SIDE**

CO 2015 of 2025

**Sri Jiten Ghosh
Vs.
Sri Indrajit Nath**

Mr. Debrup Chowdhury,
Mr. Subhajit Mukherjee,
Mr. Swakshar Kumar Mondal

... For the Petitioner.

1. This application under Article 227 of the Constitution of India is at the instance of the plaintiff and is directed against an order dated January 17, 2025 passed by the learned Civil Judge, Senior Division, 1st Court at Asansol in Misc. Case No.187 of 2018, affirming the judgment dated 17th April, 2018 passed in Misc. Appeal No.17 of 2017 arising out of Title Suit No.127 of 2016.

2. The petitioner filed a suit for declaration of tenancy right and for permanent injunction. In such a suit, the petitioner filed an application under Order 39 rule 1 and 2 of the Code of Civil Procedure which stood rejected by an order dated 21st March, 2017. Being aggrieved by such order, the petitioner preferred miscellaneous appeal being no.17 of 2017. The learned Civil Judge, Senior Division, 1st Court at Asansol by a judgment and order dated April 17, 2018, dismissed the misc. appeal on contest thereby affirming the order dated 21st March, 2017 passed by the learned trial Judge. Thereafter, the petitioner preferred a revisional application which was registered as Misc. Case No.197 of 2018 praying for review of the judgment and order dated 17th April, 2018 passed in Misc. Appeal No.17. 2017. The learned Civil Judge, Senior Division, 1st Court

at Asansol by an order dated 17th January, 2015 dismissed the review application. The petitioner has challenged the aforesaid orders by filing this revisional application under Article 227 of the Constitution of India.

3. Learned advocate, appearing for the petitioner, submits that the petitioner is a tenant in respect of the property and, therefore, he cannot be evicted without due process of law. He further submits that several documents have been produced by the petitioner in support of his possession and the learned Judges failed to appreciate the same.

4. Heard learned advocate for the petitioner and perused the materials on record. It appears from the materials on record that the learned trial Judge took note of the fact that the rent receipts produced by the plaintiff were issued after the property was transferred to the defendant in the year 2002. The learned trial Judge also noted that 545 sq. ft. of plot no.971 was transferred to the defendant and the rest portion was transferred to some other person in the year 2000. The learned trial Judge, after considering the rent receipts produced by the plaintiff, observed that the same is a false and forged one. It was further recorded that the trade license was issued to the plaintiff upon the 'no objection' of one "Mamata Paul" in 2016 and the whereabouts of the said Mamata Paul was neither found in the plaint nor in the written statement. The learned trial Judge raised serious doubts with regard to the rent receipts of the trade license. The order of the learned trial Judge was affirmed by the learned Judge of the First Appellate Court as far back as on 17th April, 2018 by passing a reasoned order.

5. The petitioner also availed the recourse available under Section 114 of the Code of Civil Procedure and was also unsuccessful in his attempt.

6. This Court finds that the learned trial Judge as well as the learned Judge of the First Appellate Court, after considering the materials on record, was of the view that the plaintiff was not entitled to an order of injunction as the plaintiff failed to prove his *prima facie* possession in respect of the suit property. For such reason, this Court is not inclined to exercise power under Article 227 of the Constitution of India.
7. Accordingly, CO 2015 of 2025 is disposed of without any order as to costs.
8. Parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.
9. Urgent photostat certified copies of this order, if applied for, be supplied to the parties on compliance of necessary formalities.

(Hiranmay Bhattacharyya, J.)