

18.03.2025
Court No. 06
Item 155 (ML)
Cp

C.O. 1835 of 2024

Sri Subhash Chandra Basu
Vs.
Sri Paritosh Saha

Mr. Tapas Kumar Sinha
.....for the petitioner.

Mr. Arnab Mukherjee
Ms. Shreyasi Manna
Mr. Prakash Barman

.....for the opposite party.

This application under Article 227 of the Constitution of India is at the instance of the defendant and is directed against an order dated April 9, 2024, passed by the learned Civil Judge (Junior Division), 3rd Court, Howrah in Title Suit No. 236 of 2021. By the order impugned, the application under Order 14 Rule 2 of the Code of Civil Procedure stood rejected.

Learned advocate appearing for the petitioner submits that the petitioner is a thika tenant in respect of the property in question and the opposite party is a bharatia under him. He submits that by way of clever drafting the opposite party herein, in the plaint has stated that he is a tenant under the petitioner herein.

The issue as to whether the opposite party is a tenant under the provisions of the West Bengal

Premises Tenancy Act, 1997 or is a bharatia governed under the provisions of the West Bengal Thika Tenancy (Acquisition and Regulation) Act, 2001, is to be decided by trial on evidence. Such an issue cannot be decided as a preliminary issue under the provisions of Order 14 Rule 2 of the Code of Civil Procedure. The learned Trial Judge was right in rejecting the application praying for framing of a preliminary issue in that regard.

This Court does not find any reason to interfere with the order impugned.

Accordingly, C.O. 1835 of 2024 stands dismissed. However, there shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, shall be furnished to the applicant at an early date, upon compliance of usual formalities.

(HIRANMAY BHATTACHARYYA, J.)