

Court No. 6
(265719)

09.06.2025
(A 42)
(S. Banerjee)

CO 1853 of 2024

Jayanta Dutta
Vs.
Narayan Chandra Sarkar

Ms. Joyita Ray

...for the petitioner

This application under Article 227 of the Constitution of India is at the instance of the defendant and is directed against order no. 24 dated January 30, 2024 passed by the learned Civil Judge (Jr. Division), Kalyani, Nadia in Title Suit No. 115 of 2018. By the order impugned the application under Order 7 Rule 11 of the Code of Civil Procedure stood rejected.

In the application under Order 7 Rule 11 of the CPC, the petitioner has stated that the plaintiff has wrongly described the date of cause of action and no previous dates were also mentioned. It has also been stated in the said application that the Schedule B property belongs to the petitioner.

As to whether the date of cause of action has been correctly mentioned in the plaint, cannot be decided at the stage of an application under Order 7

Rule 11 of the Code and such facts have to be gone into at the time of trial.

The question as to whether the defendant has a right in respect of the B Schedule property, also cannot be decided at the time of deciding an application under Order 7 Rule 11 of the Code.

It is well settled that the court has to confine itself only with regard to the averments made in the plaint at the time of deciding an application under Order 7 Rule 11 CPC. The grounds as raised in the application under Order 7 Rule 11 CPC, cannot be considered at this stage as the same are all disputed questions of fact.

The learned trial judge has assigned cogent reasons for rejection of the application under Order 7 Rule 11 of the Civil Procedure Code. This court does not find any reason to interfere with the same.

Accordingly, CO 1853 of 2024 stands dismissed. There shall be no order as to costs.

(Hiranmay Bhattacharyya, J.)