

Sl 23
23.06.2025
Court No.6
BP

C.O. 2149 of 2025

Yashwant Kumar Daga & Ors.
-versus-
Shantanu Daga & Ors.

Mr. Aniruddha Chatterjee, Sr. Advocate
Mr. Rahul Karmakar
... for the petitioners

Mr. Piyush Chaturvedi, Sr. Advocate
Mr. Nirmalya Dasgupta
Mr. G. Patnaik
Mr. D.N. Dey
..for the opposite party

On the prayer of Mr. Chatterjee, learned senior advocate for the petitioners, leave is granted to the learned advocate on record of the petitioners to amend the cause title of the civil revisional application, here and now.

This application under Article 227 of the Constitution of India is at the instance of the defendants and is directed against an order dated April 25, 2025 passed by the learned Civil Judge (Junior Division), 2nd Additional Court at Alipore in Title Suit No. 446 of 2024.

By the order impugned the application under Order 7 Rule 11 of the Code of Civil Procedure stood rejected.

Mr. Chatterjee, learned senior advocate for the petitioners submits that the suit was not properly valued. The learned trial judge lacks the pecuniary jurisdiction to decide the instant suit. He submits that the learned trial

judge did not make an attempt to ascertain as to whether the valuation of the suit was properly made or not.

Mr. Chaturvedi, learned senior advocate appearing for the opposite parties submits that the learned trial judge has already arrived at a conclusion that there is no irregularity in valuation of the suit or payment of court fees.

Heard the learned advocates for the parties and perused the material placed.

After going through the impugned order this Court finds that in the impugned order the learned trial judge has recorded that when Section 7(iv) gives the liberty to the plaintiff to value their reliefs as per their choice, there is no reason to force the plaintiffs to pay court fees on the market value of the entire assets and properties of the defendant no.1 HUF.

It is well settled that while deciding an application under Order 7 Rule 11 of the Code, the Court shall confine itself within the averments made in the plaint. The finding on valuation of the suit was arrived at keeping in mind the scope of Order 7 Rule 11 CPC.

It does not appear from the impugned order that the learned trial judge decided the issue of valuation of the suit after making any inquiry as contemplated under Section 11 of the West Bengal Court Fees Act, 1978.

The petitioners who are the defendants in the suit have raised an objection as to the valuation of the suit. If

such an objection is raised, Section 11 of the West Bengal Court Fees Act, 1970 comes into play. Section 11 of the 1970 Act deals with inquiry as to valuation of suit. It states that if the Court is of opinion that the subject-matter of any suit has been wrongly valued, it may revise the valuation and determine the correct valuation and may hold such inquiry as it thinks fit for such purpose. Thus if an objection as to the valuation of the suit is raised it is for the court to arrive at a conclusion as to whether the subject matter of any suit has been wrongly valued or not.

Order 7 Rule 11(b) of the Code of Civil Procedure states that the plaint shall be rejected where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so. In the case on hand the plaintiff was not directed by the court to correct the valuation. Therefore, the application under Order 7 Rule 11(b) of the Code on the issue of court fees was premature.

Mr. Chatterjee, learned senior advocate appearing for the petitioners draws the attention of the Court to the application under Order 7 Rule 11 of the Code of Civil Procedure wherein the petitioner has specifically stated as to why, according to the petitioner, the suit has been wrongly valued.

Without requiring the defendants/petitioners herein to file a fresh application under Section 11 of the 1970 Act, this Court is of the considered view that interest of justice would be sub-served if the application under Order 7 Rule 11 of the Code of Civil Procedure which stood rejected by the order impugned is restored to the file of the learned trial judge with a direction to treat the same to be an application under Section 11 of the West Bengal Court Fees Act, 1970.

The application filed under Order 7 Rule 11 of the Code which was dismissed by the impugned order is restored to the file of the learned trial judge with a direction to treat the same as an application under Section 11 of the 1970 Act and to dispose of the same in accordance with law.

The learned trial judge is directed to consider the objection raised by the petitioners as to the valuation of the suit and after giving an opportunity to the plaintiffs/opposite parties herein to file a fresh written objection dealing with only the objection as to the valuation of the suit, the learned trial judge shall dispose of the application under Section 11 of the West Bengal Court Fees Act, 1970 as expeditiously as possible without granting any unnecessary adjournments to either of the parties.

The impugned order stands modified only to the extent as indicated herein.

With the above observations and directions, C.O. 2149 of 2025 stands disposed of.

There shall be, however, no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Hiranmay Bhattacharyya, J.)