

A.769
28.07.2025
Court No.6
BP

C.O. 2161 of 2024

Sri Goutam Das
-versus-
Tripura Hitasadhini Sabha

Mr. Siva Prasad Ghose
... for the petitioner

Mr. Santanu Kumar Mitra
..for the opposite party

This application under Article 227 of the Constitution of India is at the instance of the substituted defendant and is directed against an order no.39 dated 30th April, 2024 passed by the learned Judge, 3rd Bench, Presidency Small Causes Court at Calcutta in Ejectment Suit No. 456 of 2017.

By the order impugned the application under Section 151 of the Code of Civil Procedure praying for restoration of the water supply through the existing pump through the suction pipe from the existing reservoir stood rejected.

Mr. Ghose, learned advocate appearing for the petitioner submits that the petitioner was getting supply of water through the existing pump through suction pipe and the opposite party herein has removed the suction pipe.

Mr. Mitra, learned advocate appearing for the opposite party submits that the occupants of the said premises were taking water from the reservoir in the ground floor through buckets and the petitioner herein illegally installed a pump.

Considering the nature of the dispute raised in the application under Section 151 of the Code of Civil Procedure this Court is of the considered view that the same could not have been decided without any clear picture being brought before the Court with regard to the mode of supply of water to the second floor flat of the petitioner.

In view thereof, the impugned order is set aside. The application under Section 151 of the Code of Civil Procedure is restored to the file of the learned Judge, 3rd Bench, Presidency Small Causes Court at Calcutta. The petitioner is given liberty to take out an application for local inspection. If such an application is filed the learned trial judge is directed to decide the application under Section 151 of the Code of Civil Procedure afresh and in accordance with law and thereafter take up the hearing of the application under Section 151 of the Code of Civil Procedure.

With the above observations, C.O. 2161 of 2024 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.)