

M/L- 612
16/07/2025
Ct. No.-6
Aritra

C.O. 2194 of 2024

**Smt. Mousumi Adhya
Vs.
Sri Haralal Chowdhury & Anr.**

Mr. Pinaki Ranjan Mitra
...for the petitioner

Mr. Mahammad Mahamud
....for the opposite party No.1

Affidavit of service filed in Court today is taken on record.

This application under Article 227 of the Constitution of India is at the instance of the plaintiff and is directed against an order dated March 7, 2024 passed by the learned Civil Judge (Jr. Div.), 7th Court at Howrah in Title Suit No.664 of 2019.

By the order impugned the application under Order 13 Rule 10 of the Code of Civil Procedure was allowed and a date was fixed for production of the case records of Title Suit No.76 of 2011.

Mr. Mitra, learned advocate appearing for the petitioner submits that the present petitioner filed Title Suit No.76 of 2011 under misconception of law but the same was subsequently withdrawn. He submits that the records of the Title Suit No.76 of 2011 are at present not traceable, for which the hearing of the Title Suit No.664 of 2019 is being delayed.

The learned advocate appearing for the opposite party submits that the petitioner herein filed an earlier suit against the present opposite parties being Title Suit No.76 of 2011 admitting that the opposite parties are tenants under the petitioners. He further submits that in order to prove such admission the records of Title Suit No.76 of 2011 is necessary.

Heard the learned advocates for the respective parties and perused the materials placed.

It is not in dispute that the summons of Title Suit No.76 of 2011 was served upon the present opposite parties herein. It is also not in dispute that the opposite parties herein filed an application under Sections 7(1) and (2) of the West Bengal Premises Tenancy Act, 1997 in Title Suit No.76 of 2011. Thus the copy of the plaint and other documents are also lying in the custody of the opposite parties herein.

Mr. Mitra, learned advocate appearing for the petitioner also submits that the petitioner is having a copy of the plaint but not the certified copy thereof.

It has been specifically stated in the paragraph 7 of the plaint that the earlier suit being Title Suit No.76 of 2011 was withdrawn. The opposite parties herein in their written statement have only denied that the earlier suit was filed out of total misconception of law or wrong advice of the learned lawyer.

On a query of the Court, the learned advocate for the opposite parties submits that the opposite parties can file the copy of the plaint served upon them in Title Suit No.76 of 2011 before the learned Trial Judge.

In view of such submission this Court is of the considered view that instead of calling for the records of Title Suit No.76 of 2011, the interest of justice would be sub-served if the parties are given liberty to produce the plaint and other documents in connection with Title Suit No.76 of 2011 before the learned trial judge in Title Suit No.664 of 2019 in support of their respective contentions.

In the light of the aforesaid observation the impugned order stands modified by giving liberty to the parties to file the documents in connection with the Title Suit No.76 of 2011 before the learned trial Judge in Title Suit No.664 of 2019.

Thus, there would be no necessity for production of the case records of Title Suit No.76 of 2011 which is presently not traceable.

With the above observations CO 2194 of 2024 stands disposed of.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Hiranmay Bhattacharyya, J.)