

**10.07.2025
Sl. No. 24
AMR
Ct.No.-6**

**C.O. 2433 of 2025
Hasi Bibi
Vs.
Selina Bibi & Ors.**

**Mr. Manas Kumar Das
Mr. Aritra Kumar Thokdar**

...for the petitioner

This application under Article 227 of the Constitution of India is at the instance of the plaintiff and is directed against an order dated 23rd June, 2025 passed by the learned Civil Judge (Senior Division), Kandi, Murshidabad in P.S. No. 213 of 2021.

By the order impugned, the application under Section 151 of the Code of Civil Procedure at the instance of the defendant no. 12 stood allowed.

The petitioner herein filed a suit for partition. In such a suit, the defendant no. 12/opposite party no. 1 herein filed an application under Section 151 of the Code of Civil Procedure praying for permission to construct the house under the Government Scheme. In the said application, it is stated that she has substantial share in the suit property and the portion of the property where she will make construction is in her possession. She has also given an undertaking stating that she will not claim any equitable right on the construction at the time of final decree.

Learned Trial Judge allowed the said application.

The learned advocate appearing for the petitioner submits that the opposite party no. 1 is trying to make construction on the best portion of the property and in excess of her share.

However, after going through the written objection filed by the petitioner herein, this Court fails to find that any such contention has been raised by the petitioner before the learned Trial Judge. This Court cannot proceed merely on the basis of submission from the Bar.

Learned Trial Judge allowed the application under Section 151 of the Code of Civil Procedure subject to the condition that no equitable right shall be claimed by the opposite party in such construction.

This Court does not find any reason to interfere with the same. Accordingly, C.O. 2433 of 2025 stands dismissed.

There will be no order as 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.)