

N.22Sl
151/CL

CO 2452 of 2025

S.M. Muzahid Alam & Anr.
v.
Jamil Bachoo Shah & Anr.

11.07.25
Sl-13
Ct.06
(S.R.)

Mr. Sudhakar Thakur
Mr. Dilip Kumar Mondal ... for the petitioners.

This application under Article 227 of the Constitution of India is at the instance of the defendants and is directed against the impugned order dated 30th June, 2025 passed by the learned Judge, Bench-X, City Civil Court, Calcutta in Title Suit No.1550 of 2022. By the order impugned, the application under Order 7 Rule 11 of the Code of Civil Procedure stood rejected.

The learned advocate appearing for the petitioners submits that in the plaint it has only been stated that the plaintiffs and the defendants are joint owners of the suit property but nowhere has it been stated as to how they become the joint owners of such property. He further submits that the learned Trial Judge while considering the application under Order 7 Rule 11 of the Code of Civil Procedure took note of the documents, namely, property tax and e-receipt for the year 2021-2022 which is not permissible.

Order 6 Rule 2 of the Code of Civil Procedure states that the pleading to state material facts and not evidence. It states that every pleading shall contain and contain

only a statement in the concise form of the material facts on which the party pleading relies for his claim or defence as the case may be, but not the evidence by which they are to be proved. It is well-settled that in the pleadings the parties are to state only the material facts but not the evidence by which such statements made in the pleading are to be proved.

After going through the plaint, this Court finds that it is stated the plaintiffs and the defendants are joint owners of the suit property. The correctness of such statement cannot be decided while considering the application under Order 7 Rule 11 of the Code of Civil Procedure. It is well-settled that the averments made in the plaint are to be taken to be true while deciding an application under Order 7 Rule 11 of the Code of Civil Procedure.

This Court finds that the learned Trial Judge assigned cogent reasons for rejecting the application. This Court does not find any reason to interfere with the same.

With the above observations, CO 2452 of 2025 stands dismissed.

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

Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Hiranmay Bhattacharyya, J.)