

D/L- 7
29/04/2025
Ct. No.-6
Aritra

C.O. 3174 of 2024
With
CAN 1 of 2025
Sri Shyamal Shee
Vs.
Sri Kashinath Mallick & Ors.

Mr. Ayan Banerjee
Mr. Dhiman Banerjee
....for the petitioner

Mr. Suhrid Sur
Mr. Subhajit Purkait
....for the opposite party

This application under Article 227 of the Constitution of India is at the instance of the defendant and is directed against an order being order No.75 dated July 11, 2024 passed by the learned Civil Judge (Jr. Div.), 2nd Court, Chandernagore, District-Hooghly in Title Suit No.131 of 2015.

By the order impugned the application under Order 14, Rule 2 of the Code of Civil Procedure stood rejected.

The opposite parties herein filed a suit for declaration of title and for recovery of khas possession. In such a suit the petitioner herein filed an application under Order 14, Rule 2 of the Code of Civil Procedure for framing a preliminary issue as to the maintainability of the suit in view of the prayer made for declaration that the recording in the record of rights is erroneous.

Mr. Banerjee, learned advocate appearing for the petitioner would submit that the prayer made in the suit

in effect would amount to alteration of the recording in the record of rights. Such submission is however disputed by the learned advocate for the opposite parties. He submits that the suit is for declaration of title and for recovery of khas possession. In such a suit the opposite parties have only prayed for declaration that the recording in the record of rights is an erroneous one and no relief for correction of the record of rights has been claimed.

However, after going through the order impugned this Court finds that the learned trial judge rejected the said application without assigning any reason in support thereof. Only for such reason, this Court is inclined to interfere with the order impugned.

Accordingly, the order being No.75 dated July 11, 2024 is set aside. The learned trial judge is directed to re-hear the application under Order 14, Rule 2 of the Code of Civil Procedure filed by the petitioner herein after giving an opportunity to the opposite parties herein to file a rejoinder to such application, if necessary. The learned trial judge is requested to dispose of the said application as expeditiously as possible without granting any unnecessary adjournments to either of the parties.

With the above observations and directions CO 3174 of 2024 stands disposed of and connected application being CAN 1 of 2025 stands also 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.)