

10.03.2025
Sl No.24
Court No.236
(gc)

CO 3338 of 2024
CAN 1 of 2024

Minati Acharya & Anr.
Vs.
Mita Roy & Ors.

Mr. Satyam Mukherjee,
Mrs. Sayani Ahmed,
Mr. Saibal Rakshit

... For the Petitioners.

Mr. Animesh Mukherjee,
Md. Abdul Alim

...for the Opposite Part No.1.

1. The learned Advocate for the petitioners and the learned Advocate for the opposite party no.1 are present.
2. None appears for the opposite party nos.2 to 4.
3. The grievance of the petitioners is that their application under Order VII Rule 11 of the Code of Civil Procedure was rejected by the learned Trial Court. Learned Advocate for the petitioners submits that the suit filed by the opposite party no.1 is not maintainable as no notice under Section 80 C.P.C. was issued and in a suit under Section 34 of the Specific Relief Act, 1963, the plaintiff is bound to pray for other reliefs apart from relief of declaration.
4. Upon hearing the learned Advocates and upon considering the facts of the case and the order

passed by the learned Trial Judge, it appears that the learned Trial Judge has dealt with the issues raised by the petitioners/defendants. The learned Trial Judge has dealt with regard to the notice required to be issued under Section 80 C.P.C. as well as the issue on deficit court fees. With regard to the stand of the petitioners that the defendants/petitioners have only prayed for declaration, this Court upon perusal of the prayers in the plaint finds that apart from declaration, the plaintiff has also prayed for injunction.

5. In the facts and circumstances of the case mentioned above, this Court does not find any error in the order of the learned Trial Judge dated 05.07.2024.
6. Thus, the revisional application under Article 227 of the Constitution stands dismissed. As the learned Advocates for the parties have prayed that the suit being T.S. 284 of 2024 pending before the learned Civil Judge (Junior Division), 1st Court, Barasat, North 24 Parganas and T.S. 640 of 2024 pending before the learned Civil Judge (Senior Division), 1st Court at Barasat to be heard and decided by the learned Civil Judge (Senior Division), 1st Court at Barasat, the parties are granted

liberty to make appropriate application before the learned District Judge, North 24 Parganas. In the event such application is made, the learned District Judge shall consider the application in accordance with law and take a reasoned decision.

7. In view of dismissal of the revisional application, the application being CAN 1 of 2024 also stands dismissed.
8. However, there shall be no order as to costs.
9. Urgent Photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Biswaroop Chowdhury, J.)