

M/L- 1364
31/07/2025
Ct. No.-6
Aritra

C.O. 3380 of 2024
Khalek Mahammad
Vs.
Najir Mahammad & Ors.

Mr. Jayanta Das
Ms. Soumita Ghosh

....for the petitioner

Mr. R. Mahato

....for the opposite parties

This application under Article 227 of the Constitution of India is at the instance of the defendant and is directed against an order being No.23 dated August 8, 2024 passed by the learned Civil Judge (Jr. Div.), Dantan, District-Paschim Medinipur in Title Suit No.221 of 2022.

By the order impugned, the application for repairing at the instance of the petitioner herein stood rejected.

The learned advocate appearing for the petitioner submits that due to passage of time that the roof of the house together with bamboo frame got damaged which requires immediate repairs. In support of such contention the learned advocate for the petitioner refers to the report of the Commissioner.

Mr. Mahato, learned advocate appears for the plaintiffs/opposite parties herein. He raises serious objection against the prayer for repairing. He submits that there is no existence of any roof and, therefore, the

same cannot be repaired. He further submits that there is an order directing the parties to maintain *status quo* with regard to the nature and character of the property in question. He, therefore, submits that the petitioner cannot be allowed to repair the house as the same would ultimately result in changing the nature and character of the suit property.

Heard the learned advocates for the respective parties and perused the materials on record.

After going through the Commissioner's report, this Court finds that in the said report it has been indicated that in R.S. Dag No.370, L.R. Dag No.373 measuring about 26 decimals on the eastern side in the area measuring about 3 decimals there is a chitebera room with bamboo frame and temporary shed. It further appears from the said report that the bamboo frames have been broken out and the roof has been completely worn out. The Commissioner has further recorded that the main entrance door has also broken down and the room on the southern portion including the bamboo frames have completely broken down the said portion is lying open.

After going through the inspection report, this Court is of the considered view that the condition of the room is such that no repairing is possible. If at all the same may be a case of reconstruction.

Since the petitioner has prayed for repairing of the suit premises, this Court is of the considered view that the learned trial judge was right in rejecting the application for repairing.

With the above observations, CO 3380 of 2024 stands disposed of.

It will be open to the petitioner herein to take appropriate steps in accordance with law.

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.)