

21st February,
2025
(AK)
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C.O 3728 of 2024

Sri Sukumar Jana
Vs.
Smt. Shyamali Paul and others

Mr. Soumya Banerjee
Ms. Sucheta Banerjee

...for the petitioner.

1. The petitioner bases his claim on an agreement for sale allegedly executed by one of the co-owners of the suit property in respect of the share of the said co-owner.
2. In a partition suit, which is on the verge of culmination, the petitioner sought to have himself added as a defendant on the strength of such agreement.
3. The said application under Order I Rule 10 of the Code of Civil Procedure was dismissed by the impugned order on the finding that the petitioner does not have any title in the property and is a stranger to the property.
4. I find that the learned trial Judge was fully justified in coming to such conclusion, since the petitioner does not have title *in praesenti* in the suit property and at best has an actionable claim against the co-

sharer who agreed with the petitioner to sell the share of such co-sharer in favour of the petitioner.

5. In fact, a suit for specific performance is informed to be pending at the behest of the petitioner on such count.
6. Unless the petitioner's suit for specific performance is decreed and a deed is executed in favour of the petitioner, the petitioner does not have any *locus standi*, not being a necessary or a proper party, to have himself added as a party to the partition suit.
7. Hence, I find no infirmity in the impugned order.
8. Accordingly, C.O. 3728 of 2024 is dismissed without any order as to costs.
9. Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)