

D/L. 8.
February 28, 2025.
MNS.

C. O. No. 3737 of 2024

Haldia Energy Limited
Vs.
Sri Malay Halder and another

Mr. Debanjan Muakherjee

... for the petitioner.

1. The present challenge is directed against the rejection of an application by the defendant no. 1/petitioner under Order VII Rule 11 of the Code of Civil Procedure (in short “the Code”).

2. The matter arises out of a suit filed by the plaintiff/opposite party no. 1 for declaration of the title of the plaintiff in respect of the suit property and for compensation of Rs.3,00,000/- from the principal defendant, the Haldia Energy Limited, for having drawn a pipeline over the suit property.

3. Learned counsel appearing for the petitioner submits that the second relief, for compensation, is barred by the provisions of Section 164 of the Electricity Act, 2003 read with Sections 10(d) and 16 of the Indian Telegraph Act, 1885.

4. The learned trial Judge, while rejecting the application for rejection of plaint, *inter alia* found that the Electricity Act, 2003 had nothing to do with

Sections 10(d) or 16 of the Indian Telegraph Act, 1885, which may not be a correct interpretation of the law in view of Section 164 of the Electricity Act, 2003, which enables the said provisions to be applied to electricity matters as well.

5. However, although not agreeing with the reasons given by the learned trial Judge, this Court concurs with the conclusion thereof, whereby the application under Order VII Rule 11 of the Code has been rejected, for the following reason:

6. It is well-settled that there cannot be a partial rejection of a plaint.

7. In the present case, the first relief regarding declaration of the title of the plaintiff can only be granted by a competent civil court within the contemplation of Section 34 of the Specific Relief Act and Section 9 of the Code of Civil Procedure. The concerned authorities under the Indian Telegraph Act, 1885, are not empowered in law to grant such relief and as such, in respect of the principal relief, being the decree for declaration of title of the plaintiff, it cannot be said that the plaint could be rejected.

8. Even if there is some doubt as to the maintainability of the second relief regarding

compensation, there can be two perspectives to the same.

9. First, there is a prevalent view that if a consequential or ancillary relief is sought in aid of the principal relief claimed in a suit, the Civil Court has jurisdiction to grant the same despite a bar in some other law, whereas it would be otherwise, if such relief was sought on a standalone footing.

10. The other possible view is that since the second relief can notionally be segregated from the first relief, the same cannot be granted by the Civil Court.

11. However, the said question is a debatable issue, which can only be answered on a full-fledged trial by the learned trial judge at the final hearing of the suit and it would be premature for this Court, sitting in judgment over an order passed on an application under Order VII Rule 11 of the Code, to decide the same.

12. Accordingly, the said issue is best left to the judgment of the learned trial Judge, for being decided at the final hearing of the suit, and is kept open for being so decided at the time of final hearing.

13. Suffice to say at this stage that it is trite law that there cannot be a partial rejection of plaint and

as the first and principal relief of declaration of title is very well maintainable before a civil court, the plaint cannot be rejected as a whole.

14. On the basis of the above observations, I find no illegality or jurisdictional error in the conclusion of the impugned order.

15. Accordingly, C. O. No. 3737 of 2024 is disposed of without interfering with the impugned order in the light of the above observations.

16. There will be no order as to costs.

17. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)