

S/L 43
12.08.2025
Court. No. 3
Suwayan

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE**

CO 158 of 2025

**Subrata Paul
Vs.
Smt. Koushalya Roy & Ors.**

*Mr. Kunaljit Bhattacharya
Mr. Haider Ali
Mr. Satyam Sarkar*

...for the petitioner.

1. The subject matter of the instant revisional application is the Order no. 71 dated 29.11.2024 as passed by the learned Civil Judge (Senior Division), Jalpaiguri in Title Suit no. 118 of 2014 whereby and whereunder the said Court by the impugned order rejected the application under Order I Rule 10(2) read with Section 151 CPC as filed by the defendant nos. 2 to 6 for expunging their names from the cause title of the plaint.
2. The defendant no. 3 felt aggrieved and thus preferred the instant revisional application.
3. At the time of hearing, Mr. Bhattacharya, learned Advocate appearing on behalf of the revisionist/defendant no. 3 at the very outset draws attention of this Court to the copy of the plaint of Title Suit no. 118 of 2014 as has been annexed with the instant revisional application. It is submitted that from the prayer portion of the said plaint it would reveal that basically the said suit was filed for partition of the suit property, particulars of which has been mentioned in the schedule of the plaint against the

defendant no. 1 who according to the plaintiffs is a co-sharer of the suit property.

4. It is further submitted by Mr. Bhattacharya that from the averments of the plaint it would reveal further that the defendant nos. 2 to 6 have no right, title and interest over the suit property and, therefore, there is no necessity for impleading the said defendant nos. 2 to 6 by the plaintiffs in a suit for partition since it is settled principle of law that in a suit for partition only the co-sharers of the suit property are the necessary and proper parties.
5. It is further submitted by Mr. Bhattacharyya that in the written objection as filed by the plaintiffs against the said application for deletion of the names of the defendant nos. 2 to 6 the plaintiffs have categorically admitted that the defendant nos. 2 to 6 have got no right, title and interest over the suit property.
6. It is thus submitted by Mr. Bhattacharya that the learned trial court while passing the order impugned has failed to visualize such factual position as has been admitted by the plaintiffs not only in the plaint but also in their said written objection and despite such learned trial court declined to allow the defendant nos. 2 to 6's application for deletion of their names from the cause title of the plaint of the said suit while considering the application under Order I Rule 10(2) of the CPC.
7. This Court has meticulously gone through the entire materials as placed before this Court. This Court has

given its due consideration over the arguments as advanced by Mr. Bhattacharya, learned Advocate appearing on behalf of the revisionist/defendant no. 3.

8. On careful perusal of the plain of Title Suit no. 118 of 2014 it appears to this Court that it is the plaint case that the defendant no. 1 in collusion with the other defendants are making an attempt to create a cloud over the right, title and interest of the plaintiffs in the suit property and thus in the prayer portion of the plaint the plaintiffs have not only sought for a decree for partition but also have prayed for permanent injunction against the defendants from changing the nature and character of the suit property and/or from entering into the plaintiffs' share of land along with other ancillary reliefs.
9. It further appears to this Court that the plaint as filed before the learned trial court in Title Suit no. 118 of 2014 as it stands today discloses sufficient causes of action for proceeding with the said suit against the defendant nos. 2 to 6 despite the fact that as against the defendant nos. 2 to 6 no relief has been prayed for partition.
10. This Court is in respectful disagreement with the argument of Mr. Bhattacharya that in a suit for partition there is hardly any scope to seek any injunction against other defendants who according to the plaint case is/are not the co-sharers of the suit property.

11. In considered view of this Court if such argument is accepted that would lead to multiplicity of suits and proceedings especially when it is the specific case of the plaintiffs in Title Suit no. 118 of 2014 that despite the fact that the defendant nos. 2 to 6 have no interest over the suit property, they in connivance with the defendant no. 1 made an attempt to transfer and/or alienate the suit property to third parties which may have resulted the said suit for partition and permanent injunction as infructuous.
12. In view of the discussion made hereinabove this Court finds no merit in the instant revisional application.
13. Accordingly, CO 158 of 2025 is dismissed at the stage of admission.
14. There shall be, however, no order as to costs.
15. Department is directed to communicate the copy of this order to the learned trial court forthwith.
16. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

(Partha Sarathi Sen, J.)