

Present : Bristi Bardhan J.O. Code: WB01490

T.S. 56 of 2022

C.I.S. 56 of 2022

Order No. 18

11.03.2024

Today is fixed for further hearing of Preliminary issue and payment of cost of Rs. 100/- by the Plaintiff.

Both parties file hazira.

Now, the Preliminary issue is taken up for hearing.

1. Whether the suit is maintainable in its present form and nature?

Ld. Advocate for the **Defendant** submits that this Court has no jurisdiction to try this suit. He even submitted that there is no cause of action in this suit.

He has also submitted that the Plaintiff had not properly mentioned the description of the suit plot which is mandatory under Order 7 Rule 3 of CPC.

Ld. Advocate for the **Plaintiff** submits that he had specified the cause of action in this suit and the matter of jurisdiction to be tried at the time of evidence.

Considering the submissions of the Ld. Advocates, the Court is of the opinion that :

A. The Defendant had raised that this Court has no jurisdiction to declare an LRROR as erroneous as it is a bar under **Section 51C of The West Bengal Land Reforms Act, 1955**. But, this Court finds that this is not the only prayer which has been claimed by the Plaintiff through this suit. This is a suit of declaration and permanent injunction. Thus, this Court has the jurisdiction and power to declare the title of the Plaintiff over the suit plot. Thus, this suit cannot be declared as non-maintainable only on the ground that a particular prayer of the Plaintiff cannot be entertained by this Court whereas the other prayers of the Plaintiff can be decided by this Court.

B. ‘Cause of action’ means bundle of facts which taken with the law applicable to them gives the Plaintiff the right to relief against the Defendant. Here, the Plaintiff had mentioned in paragraph no. 10 of his Plaint that the Defendant had forcefully plough the land of the Plaintiff on **26.01.2022**. Thus,

this is enough for the Defendant to deny the title of the Plaintiff over the suit plot as he had forcefully ploughed the land of the Plaintiff.

C. The Defendant had stated that the Plaintiff had not specified the description of the immovable property as the Plaintiff had not mentioned the J.L. number in the schedule of the plaint which is mandatory under **Order 7 Rule 3 of CPC**. But, this Court finds that not providing proper description of the suit plot is not a ground to declare of a suit as non-maintainable. Therefore, this is not a ground to declare a suit as non-maintainable.

D. The Defendant had relied upon **Section 57B of The West Bengal Estate Acquisition Act, 1953**. But, this Court can decide the status of the tenant or the determination of the rent at the time of judgment. At this stage, this Court is not in a position to decide a matter relating to the tenant and his rent which is involved with record of rights.

2. Whether the suit is barred by any law?

This suit is not barred by any law. This Court has full jurisdiction to try this suit.

Thus, this suit is **MAINTAINABLE in its present form and nature**.

To **24.05.2024** for injunction hearing.

D & c by me,

Sd/-

Civil Judge (Jr. Divn),
Haldia, Purba Medinipur

Sd/-

Civil Judge (Jr. Divn),
Haldia, Purba Medinipur