

02.05.2025
Item No.06,DL
Ct.17
A.J.

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION**

C.O. 747 of 2025
(Assigned)

Saibal Mukherjee & Ors.
-Vs-
Smt. Kalpana Mullick & Ors.

Mr. Partha Pratim Roy,
Mr. Sounak Bhattacharya,
Mr. Sounak Mandal,
Mr. Anirban Saha Ray.
.....for the petitioners.

The character of the suit property as to whether it is comprised in Thika Tenancy needs to be ascertained since the defendants are claiming to be thika tenants, such question can only be determined by a Thika Controller under Section 5(3) of the West Bengal Thika Tenancy (Acquisition and Regulation) Act, 2001, consequently bar under Section 21 thereof comes into play, as such the rejection of prayer of the defendants/petitioners for determination of the issue of maintainability of the suit under Order XIV Rule 2 of the Code of Civil Procedure on the ground that suit for recovery of possession from the trespasser is not hit by the said restriction, *prima facie*, is not sustainable.

The revisional application, therefore, requires further consideration.

The petitioners are directed to give notice to the opposite parties and to their learned

advocate in the Court below by Speed Post with Acknowledgement Due intimating that the matter will be included in the **Combined Monthly List of June, 2025** under the heading “**Motion**”.

The petitioners to file affidavit of service on the next date of hearing.

There shall be stay of all further proceedings of Title Suit No. 37 of 2016 pending before the Additional Court of the learned Civil Judge (Junior Division), Sealdah **till the end of the month of July, 2025** or until further order(s), whichever is earlier.

Parties to act on the server copy of this order duly downloaded from the official *website* of the Court.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)