

19.09.2025
Item No.29
PG
Ct. No.6

C.O. 3472 of 2025

**Indranath Nandy & Ors.
vs.
Lakshmi Kanta Nandy & Anr.**

Mr. Rajib Roy..... for the petitioners

1. This application under Article 227 of the Constitution of India is at the instance of the defendants and is directed against the order dated 1st September, 2025 passed by the learned Civil Judge (Senior Division) at Sealdah in Title Suit No. 167 of 2021. By the order impugned, an application under Order 1 Rule 10(2) of the CPC filed by the petitioners praying for striking out their names from the array of parties in the said suit stood rejected.
2. Learned advocate for the petitioners submits that by suppressing the material facts, the opposite parties have filed a suit for partition treating the same to be the joint personal property of the parties to the suit.
3. He further submits that the suit property is a debuttar property and the same cannot be partitioned. He submits that for such reason, the petitioners filed an application under Order 1 Rule 10(2) of the CPC praying for striking the names of the defendants from the array of parties in the said suit.

4. After going through the materials on record, this Court finds that the opposite parties have filed the suit claiming the suit property to be the joint property of the plaintiffs and defendants. Alleging that the plaintiffs are facing inconvenience in the joint possession of the suit property, the instant suit has been filed praying for partition of the said suit property.
5. It is the case of the defendants/petitioners in the written statement that the suit property is a debuttar property and the same cannot be partitioned.
6. Whether the property, which is the subject matter of the suit is the joint property of the parties or the debuttar property, cannot be decided in an application under Order 1 Rule 10(2) of the CPC, as rightly observed by the learned trial Judge. Such fact can be decided only at the time of final hearing of the suit and trial on evidence.
7. The learned trial Judge was right in rejecting the application under Order 1 Rule 10(2) of the CPC. The impugned order does not suffer from any infirmity warranting interference under Article 227 of the Constitution of India.
8. Accordingly, C.O. 3472 of 2025 stands dismissed.
9. At this stage, learned advocate appearing for the petitioners prays for a direction upon the learned trial Judge to dispose of the suit expeditiously.

10. In the light of the said submission made by the learned advocate for the petitioners, learned Civil Judge (Senior Division) at Sealdah is requested to dispose of Title Suit No. 167 of 2021, if the same is otherwise ready and make an endeavour to dispose of the suit as expeditiously as possible without granting any unnecessary adjournment to either of the parties.
11. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(HIRANMAY BHATTACHARYYA, J.)