

18.2.2025
37
Ct. no. 237
sb

CO 3933 of 2024

**Premal Sen & Anr.
Vs.
Ranjit Sen & Ors.**

Mr. Jishnu Saha
Mr. Debasish Ghosh
Mr. Prantik Garai
Mr. Ishan Saha
Ms. Richa Raman
Mr. Sayak Chakraborty ...for the Petitioners

Supplementary affidavit filed by the petitioners
is taken on record.

Being aggrieved and dissatisfied with the order dated 25th June, 2024 passed in Title Suit no. 561 of 2018, the present application has been preferred by the petitioner contending that in a suit for specific performance of contract, the Trial court has erroneously allowed the prayer for addition of party holding that the plaintiffs have prayed for rest of the consideration money as per agreement and therefore, there is every chance to deprive the prospective added party without giving him any chance to enter into the suit and opportunity to prove his claim.

Learned counsel for the petitioner in this context, submits that the plaintiffs are dominus litus and he is the master of the suit and the plaintiff has right to decide against whom he wants to fight and against whom he does not want to contest.

In this context, he relied upon the judgment of **Gurmit Singh Bhatia Vs. Kiran Kant Robinson and others reported in (2020) 13 SCC 773.**

He further contended that since this is a suit for specific performance of contract, the parties to the contract only are the necessary parties and the other persons are not necessary parties to the suit as suit can be disposed of in the absence of those persons. In this context, he relied upon the judgment of **Kasturi Vs. Iyyamperumal and others** reported in **(2005) 6 SCC 733.**

The petitioners are directed to serve a copy of the application upon the opposite parties through speed post intimating the next date of hearing and to file affidavit of service on the returnable date.

Let the matter appear in the Monthly list of March, 2025 under the heading **“Contested Application”.**

Upon hearing of learned counsel for the petitioner and considering the fact that the petitioner has made out an arguable case which needs adjudication on merit, let the order dated 25th June, 2024 passed by the learned Civil Judge (Senior Division), 4th Court, Alipore, South 24 Parganas in Title Suit no. 561 of 2018 be stayed for a period of eight weeks or until further order whichever is earlier.

Urgent Photostat certified copy of this order, duly applied for, be given to the parties upon compliance of all requisite formalities.

(Dr. Ajoy Kumar Mukherjee, J.)