

13-03-2020
Court No.1
Sh/07.

**CIRCUIT BENCH OF
CALCUTTA HIGH COURT
AT JALPAIGURI
WRIT APPELLATE JURISDICTION
APPELLATE SIDE**

C.O. 36 OF 2020

**Beam Kumari laama (Tamang). . . Petitioner
-Vs-
Success Nirman Pvt. Ltd. & Ors.
.** **.....Opposite parties.**

Mr. Narendra Nath Das.

. . .For the Petitioner.

Mr. Sunil Kumar Sarkar. .For the Opposite parties.

Affidavit of service in Court today be taken on record.

The revisional application is directed against order No.40 dated February 13, 2020 passed in Title Suit No.12/2012.

The revisional application is at the behest of the defendant no.3 in a suit for declaration and permanent injunction.

Learned advocate appearing for the defendant no.3 submits that the plaintiff in the suit is seeking to enter into a compromise with the defendant nos.1 and 2 in the suit in respect of the immovable properties over which the plaintiff and defendant nos.1 and 2 have no right title and interest. According to him, the compromise sought to be entered into between the plaintiff and the defendant nos.1 and 2 are beyond the

reliefs prayed for in the suit. Moreover, the defendant no.3 has claims which are adverse to the compromise entered into between the plaintiff and the defendant nos.1 and 2. He submits that, the suit property described in the plaint and the properties described in the compromise petition are different.

Learned advocate appearing for the petitioner/defendant no.3 submits that the compromise entered into between the plaintiff and the defendant no.1 and 2 is illegal.

Learned advocate for the plaintiff/opposite party no.1 submits that, the plaintiff/opposite party no.1 is seeking to enter into a compromise with the defendant nos.1 and 2/opposite parties no.2 and 3. The plaintiff is withdrawing all claims against the defendant no.3. He submits that, a decree may be passed in terms of the terms of settlement terms of the compromise petition between the plaintiff and the defendant nos.1 and 2. The suit be dismissed as against the defendant no.3 as withdrawn.

Therebeing a valid compromise between the plaintiff and the defendant nos.1 and 2, the Title Suit no.12 of 2012 should be decreed in terms of the compromise petition filed by the plaintiff and the defendant nos. 1 and 2. Such Title Suit should be dismissed as withdrawn as against the defendant no.3. The learned Court in seisin of Title Suit no.12 of 2012 will pass appropriate order in this regard.

It is clarified that the compromise decree will not affect any right title and interest of the defendant no.3

in respect of any of the properties involved in the compromise petition. The defendant no.3 is at liberty to agitate and establish its right title and interest in respect of such properties before the appropriate forum, in accordance with law.

The revisional application being C.O.36 of 2020 is disposed of accordingly, without any order as to costs.

Certified website copy of this order, if applied for, be immediately made available to the learned advocate for the parties on compliance of all requisite formalities.

(DEBANGSU BASAK,J.