

32. 15.01.
2024
Ct. 655

**CAN 1 of 2017
(OLD NO. CAN 2463 of 2017)
In
C.O. 3360 of 2014**

**Ram Chandra Halder
Vs.
Mihir Thakur & Ors.**

Mr. Bhaskar Chandra Manna

....for the petitioner.

Mr. Bhaskar Chandra Manna, learned Counsel on behalf of the petitioner is present.

There is no representation on behalf of the opposite parties.

This instant application is filed under Article 227 of the Constitution of India challenging the impugned order dated 29.8.2014 passed by the learned Civil Judge (Sr. Division), Bongaon, North 24 Pargans. By the impugned order passed by the learned Trial Court, the application filed by the plaintiff under Order 39 Rule 1 and 2 of the CPC was allowed.

Being aggrieved by and dissatisfied with the said impugned order the present application is filed by the petitioner. It is submitted on behalf of the petitioner that Order 43 Rule 1(r) of CPC provides that an appeal shall lie from the order passed under Order 39 Rule 1 and 2. So there is specific provision of appeal against the said impugned order. Despite that the instant application is

filed challenging the said order under Article 227 of the Constitution of India.

Since the petitioner has alternative remedy before appropriate forum against the order impugned, the present application filed under Article 227 of the Constitution Of India is not maintainable.

It appears that the present application is filed seeking restoration of the civil revisional application to its original file and number which was dismissed for default on 01.03.2017.

In view of the observations made hereinabove the present revisional application is not maintainable.

Accordingly, application being no. CAN 1 of 2017 is dismissed for non-prosecution.

Interim order, if any, stands vacated.

There will be no order as to costs.

(Prasenjit Biswas, J.)

