

Sn 19.3.21

**C.O.2827 of 2019
(CAN 2 OF 2020)**

**SHAILA MOTORS PVT. LTD. & ORS. SRI
TAPAS KUMAR MAITY**

Mr. Mitul Chakraborty
..for the petitioners
Mr. Pranit Bag
Mr. Subhamay Dewanji
..for the opposite party

In re : CAN 2 OF 2020

CAN 2 of 2020 is an application for expeditious disposal of the revisional application being C.O. 2827 of 2019. C.A.N. 2 of 2020 is allowed and the revisional application is taken up for hearing here and now.

In re : C.O.2827 of 2019

This revisional application arises out of an order dated August 16, 2019 passed by the learned District Judge, Purba Medinipur, Tamluk in J. Misc. Case No. 35 of 2019. The J. Misc. Case No. 35 of 2019 was an application filed by one of the defendants under Section 24 of the Code of Civil Procedure.

The learned Court below allowed such prayer and directed that the suit should be heard analogously and the case records of Title Suit No. 178 of 2016 pending before the Civil Judge (Senior Division) 1st Court at Tamluk were withdrawn and placed before the learned

Civil Judge (Senior Division) 2nd Court at Tamluk for trial and disposal analogously with Title Suit No. 140 of 2013. The learned Court below upon consideration of the plaint and the records in both the suits found that the parties were identical and there was also indentify with regard to one of the suit properties. It was found that the decision in one of the suits would have a direct effect on the decision of other suit.

It appears that the plaintiff in both the suits is Shaila Motors Private Limited. The defendants are more or less identical. In the first suit, there is a claim for declaration of tenancy, recovery of possession and mandatory injunction in respect of one of the properties which is also a subject matter in the second suit, that is, Title Suit No. 178 of 2016. The parties are the same and the issues involved are partially the same. The learned Court below will have to decide the right, title and interest in respect of the suit properties in both the suits. The dispute is mainly over plot No. 36 which is a part of the schedule of the plaint in both the suits. If the suits are heard independently there may be conflicting decisions at least with regard to that particular property. Thus, in order to avoid multiplicity of the proceeding and also in order to reduce the time spent in litigating, both the suits, in my opinion, should be heard together and the learned District Judge rightly allowed the Misc. Case.

This Court directs the learned Civil Judge, Senior Division, 2nd Court, Tamluk, Purba Medinipur to frame issues in both the suits within 10 days from the next date fixed if not already framed and proceed with the hearing of both the suits, analogously.

This Court has not gone into the merits of the claim and counterclaim of the parties and directs the learned Court below to dispose of the suits on their own merits and in accordance with law.

This revisional application is disposed of.

There will be however no order as to costs.

Urgent photostat certified copy of this order be given to the parties on priority basis, if the same is applied for.

(Shampa Sarkar,J.)

