

Ct. 19
Item No.3(VB)
05.11.2020
(suvendu)

CO 1394 OF 2020

**South Eastern Railwaymen's Congress
Vs.
Abhishek Debnath & Ors.**

(Via Video Conference)

Mr. Subir Sanyal
Mr. Tanmay Mukherjee
Mr. Amal Kumar Saha
.....for the Petitioner
Mr. Sabyasachi Chowdhury
Mr. Rajdeep Bhattacharya
.....for the OP

The instant revisional application is directed against an order dated 20th October, 2020 passed by the Court below in an application under Order 39 Rules 1 and 2 read with Section 151 of the Code of Civil Procedure, 1908 filed in the suit. The order passed under the provisions of Order 39 Rule 1 and 2 of the Code of Civil Procedure is an appealable order. No revisional application lies against such order.

Learned advocate appearing for the petitioner submits that the petitioner wanted to move an appeal before the learned District Judge and approached the said Court on 2nd November, 2020 but unfortunately the petitioner could not do so as the District Court was not taking up civil matters

during the vacation. He submits that the petitioner cannot be left remediless. The next Vacation Bench in the District Court is on 7th November, 2020 according to the petitioner. In the event this Court is not entertaining the revisional application, the District Judge, South 24 –Parganas or the Judge-in-Charge during the Vacation Bench at Alipore be directed to take up the appeal on the next date of Vacation Bench, i.e. on 7th November, 2020.

If the petitioner approaches the Registry of the District Court at Alipore to file the appeal on 6th November, 2020 then the petitioner's appeal and the application should be permitted to be filed. The District Judge or the Judge-In-Charge in that event should make an endeavor to hear the application connected with the Miscellaneous Appeal that may be filed by the petitioner on 7th November, 2020. The petitioner shall serve a copy of the memorandum and the stay application to the Opposite Parties and/or the advocate representing the Opposite Parties in the instant revisional application prior to moving the same before the District Court.

The Revisional Application is not entertained only for the reason that an appeal lies from the order impugned and I have not gone into the merits of the case.

C.O. 1394 of 2020 is accordingly disposed of.

(Arindam Mukherjee, J.)