

(128)
08.04.2021
(p.jana)

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION**

(Via Video Conference)

CO No. 762 of 2020

**Sri Anjan Kumar Majumder
-versus-
Smt. Pramila Panda & ors.**

Mr. Kushal Chatterjee,
Mr. Debabrata Roy,
... for the petitioner.

Mr. Siva Prasad Ghosh,
Mr. Ramtanu Dey,
... for the opposite parties.

Affidavit of service filed on behalf of the petitioner in
Court today be kept with the record.

The opposite parties have suffered a decree of
eviction.

The opposite parties in the execution case levied to
execute the said decree of eviction filed an application under
Section 47 of the Code of Civil Procedure registered as Misc.
Case No. 3 of 1993.

The petitioner being a decree-holder filed an
application for deciding the said misc. case on the point of
maintainability. The executing Court by the order impugned
being order dated December 21, 2019 has dismissed the said
application.

The question of maintainability of any *lis*, when raised
shall be addressed at the threshold.

The Executing Court, therefore is not justified in deferring decision on the said issue.

The Executing Court is directed to decide the question of maintainability of the said misc. case only on the basis of the averments made in the application under Section 47 of the Code.

C.O. 762 of 2020 is thus disposed of without any order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance of all requisite formalities.

(Biswajit Basu, J.)