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23.04.2021
(p.jana)

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

(Via Video Conference)

CO No. 1047 of 2021

**Suresh Chowdhury
-versus-
Smt. Biva Rani Das**

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

Ms. Aleyah Quraishi ... for the opposite party.

The petitioner is the defendant in the connected eviction suit being Title Suit No. 108 of 2016 pending before the 3rd Court of learned Civil Judge (Senior Division) at Barasat, District: 24 Parganas (North).

The learned Trial Judge by the order impugned has dismissed an application filed by the petitioner under Section 151 of the Code of Civil Procedure seeking recall of the order no. 13 dated September 13, 2017.

The learned Trial Judge by the said order no. 13 dated September 13, 2017 allowed an application filed by the plaintiff/opposite party under Section 7(3) of the West Bengal Premises Tenancy Act, 1997 thereby struck out the defence of the petitioner against delivery of possession.

The petitioner has challenged the said order no. 13 dated September 13, 2017 in C.O. 4211 of 2017 which is pending disposal before this Court.

The said application under Section 151 of the Code was not made bona fide since the petitioner in the said application has not disclosed that the order for recall of which the said application was filed is under challenge in the aforesaid pending revisional application.

This Court does not approve such conduct of the petitioner.

C.O. No. 1047 of 2021 is dismissed with costs of **Rs. 10,000/-** to be paid by the petitioner to the opposite party within two weeks from date.

Let the aforesaid pending revisional application being C.O. 4211 of 2017 be listed on **May 17, 2021** under the heading '**Motion**'.

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.)