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SK
Ct. No. 18
27.01.2021

**C.O. No. 2081 of 2019
(Via Video Conference)**

**Sri Shyamal Kumar Kundu
Vs.
Sri Bidyut Kumar Halder & Anr.**

Mr. Tanmoy Mukherjee ... For the petitioner.

Mr. Subhojit Saha,
Mr. Amitabha Basu,
Mr. Sudipta Ghosh ... For the O.P. No. 1.

The petitioner is the plaintiff of the eviction suit being Title Suit No. 45 of 2010 pending before the 1st Court of learned Civil Judge (Junior Division) at Sealdah.

The opposite party no. 1 in the said suit filed an application under Order VII Rule 10 of the Code of Civil Procedure questioning the territorial jurisdiction of the learned Trial Judge to entertain the said suit and prayed for transfer of the said suit before the appropriate Court.

The learned Trial Judge by the order dated March 15, 2018 dismissed the said application.

The opposite party no. 1 assailed the said order before the learned District Judge at Alipore under Section 115A of the Code registered as Civil Revision Case No. 11 of 2018.

The petitioner by the present revisional application is challenging different orders passed in the said revisional application, particularly the order whereby the learned District Judge has entertained the said revisional application on the ground that the order dated March 15,

2018 passed by the learned Trial Judge is not revisable under Section 115A of the Code.

Learned Advocate appearing on behalf of the opposite party submits that the petitioner in the said revisional application has already filed an application questioning the maintainability of the said case and prays that the said issue may be decided by the revisional Court below.

The order dated March 15, 2018 apparently does not qualify the requirement of the proviso appended to Section 115 of the Code for being interfered with in an application under the said provision of the Code.

However, since the petitioner has already filed an application raising the issue of maintainability of the said revisional application on the said ground, C.O. 2081 of 2019 is disposed of by requesting the 7th Court of learned Additional District Judge at Alipore District. 24 Paragans (South) where the said revisional application being C.R. Case No. 11 of 2018 is now pending to dispose of the said application of maintainability positively on the next date fixed.

There shall be no order as to costs.

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

(Biswajit Basu, J.)