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C.O. 1638 of 2021

Silverson Trade Link Private Limited
Versus
Pradeep Kumar Agarwal & Ors

(Via Video conference)

Mr. Abhratosh Majumdar, Sr. Adv
Mr. Arif Ali,
Mr. Probhat Kumar Srivastawa, ... For the petitioner.

Mr. Abhijit Roy,
Mr. Subyham Gupta,
Ms. Debarati Das,
... For the Opposite Party Nos. 1, 2, 4 and 5.

The impugned order, dated 7th September, 2021 passed by learned Judge, Vth Bench of the City Civil Court at Calcutta in Title Suit No. 1026 of 2020 concluding hearing upon giving precedence to a petition under Order 7 Rule 11 of the Code of Civil Procedure and thereby declining to take up another petition, filed by the petitioner under Order 6 Rule 17 on the same date is the subject of challenge in this revisional application.

Mr. Abhratosh Majumdar, learned advocate representing the petitioner submits that the prayer for amendment was filed by the petitioner/plaintiff on 3rd March, 2021, but the learned Court below despite having fixed the date for simultaneous hearing with petition under Order 7 Rule 11 of the Code of Civil Procedure, the learned Court below has simply taken up hearing of petition under Order 7 Rule 11 of Code of Civil Procedure without taking up the pending amendment petition, under Order 6 Rule 17 of the Code of Civil Procedure.

Mr. Abhijit Roy, learned advocate for the opposite party Nos. 1, 2, 4 and 5/ defendants submits that in view of the order passed in C.O. 156 of 2021 dated on 28.01.2021 by Co-ordinate Bench of this Court, directing expeditious disposal of application under Order VII Rule 11 of the Code of Civil Procedure, the Court below was supposed to take up petition under Order VII Rule 11 of Code of Civil Procedure, giving precedence thereto, but in course of actual hearing, the Court below proceeded to take up both the petitions, i.e., the prayer for rejection of the plaint, and the amendment petition together giving a hearing therefor to either of the parties to this case.

There is no dispute between the parties that petition under Order VII Rule 11 was filed on 08.01.2021, while petition for the amendment was filed on 3.3.2021, and both the petitions admittedly have not been disposed of by the learned court below recording any order for the purpose.

The point raised in this case is very short and simple, and it requires no extensive hearing, and this may be disposed of instantly giving suitable direction therefor.

In course of hearing, it is gathered knowledge that the learned Court below has not passed any order till date, touching upon the prayer relatable to rejection of plaint under Order VII Rule 11 of the Code of Civil Procedure, and the prayer pertaining to the amendment application under Order VI Rule 17 of Code of Civil Procedure.

Having considered the submission of both sides, learned Court below is directed to dispose of both the petitions under Order VII Rule 11 of the Code of Civil Procedure praying for rejection of the

plaint along with the prayer for amendment under Order VI Rule 17 of the Code of Civil Procedure, filed by the petitioner/plaintiff, as expeditiously as possible, preferably with three months from the date of communication of this order.

In doing such exercise, learned Court below is directed that both the parties must be given appropriate opportunity of hearing, but without granting unnecessary adjournment, unless it is extremely unavoidable.

With these observations and directions the revisional application stands disposed of.

There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the appearing parties as expeditiously as possible upon compliance with the all necessary formalities.

(Subhasis Dasgupta, J)