

26.11.2021
Item No.22
Ct. No. 18
AJ.

**C.O. 1888 of 2021
(Through Video Conference)**

**Md. Alauddin
-Vs-**

**Ghulam Nabi, since deceased his heirs and
legal representatives Dolat Begum & Ors.**

Mr. Sukanta Chakraborty,
Mr. Anindya Halder.
....for the petitioner.

Mr. Tarique Quasimudin,
Mr. Abbas Ibrahim Khan.
.....for the opposite parties.

The defendant no.5 in a suit for declaration is the petitioner of the present application under Article 227 of the Constitution of India which is directed against Order No. 61 dated October 04, 2021 passed by the learned Judge, 12th Bench, City Civil Court at Calcutta in the said suit being Title Suit No. 663 of 2015.

The learned Trial, Judge by the order impugned, has allowed an application filed by the defendant no.1 seeking repair of the suit shop room.

The grievance of the petitioner is that such an application is allowed without giving him an opportunity to contest it.

An application for repair can only be allowed after being satisfied that the suit property requires repair as prayed for in the application.

The order impugned lacks recording of such satisfaction as such set aside on the said ground alone.

C.O. 1888 of 2021 is disposed of by requesting the learned Trial Judge to decide the application for repair afresh in accordance with law.

In view of the pendency of the said application for a long time and considering the nature of relief sought for in the said application, the learned Trial Judge is requested to dispose it of as expeditiously as possible preferably within a period of one effective available working month of the said Court from the date of communication of this order and in doing so shall not grant any unnecessary adjournment to either of the parties.

There shall be no order for 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.)