

22.11.2021
Item No.47
Court No.18
AJ.

C.O. 1932 of 2021

Ashok Daga & Anr.
-Vs-
Harsha Badani & Ors.

Mr. Abhijit Ray,
Mr. Shubham Gupta.
...for the petitioners.

Mr. Abhijit Ray, learned counsel appears
on behalf of the petitioners.

The defendants in a suit for ejectment
being Ejectment Suit No. 378 of 2019 pending
before the learned 6th Bench, Small Causes Court,
Calcutta are the petitioners of the present
application under Article 227 of the Constitution
of India.

The petitioners have assailed the order
dated August 25, 2021 whereby the learned Chief
Judge has kept an application filed by the
petitioners under Order VII Rule 11(d) of the Code
of Civil Procedure with the record to be
considered at the time of hearing of the suit.

The issue regarding the maintainability of
the suit is in-built in deciding the said suit on
merit, therefore, to decide the said issue along
with the other issues to be framed in the said suit
is the right approach, as such, the order
impugned does not call for any interference.

C.O. 1932 of 2021 is disposed of with a request to the learned Chief Judge to dispose of the application filed by the petitioner under Section 7(2) of the West Bengal Premises Tenancy Act, 1997 in accordance with law. All points taken by the petitioners in the said application are kept open.

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.)