

22.11.2021
Item No.49
Court No.18
AJ.

C.O. 1935 of 2021

**Shri Bhagwati Textiles, represented by its
proprietor Sri Sharwan Kumar Agarwala**

-Vs-

Harsha Badani & Ors.

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

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

The defendant in a suit for ejectment being
Ejectment Suit No. 381 of 2019 pending before
the learned 6th Bench, Small Causes Court,
Calcutta is the petitioner of the present
application under Article 227 of the Constitution
of India.

The petitioner has assailed the order dated
August 25, 2021 whereby the learned Chief Judge
has kept an application filed by the petitioner
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. 1935 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 petitioner 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.)