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Ct. 18
04.03.2022

**C.O. No. 179 of 2022
(Via Video Conference)**

**Hindustan Engineering & Industries Ltd.
Vs.
Titagarh Industries Ltd.**

Mr. Aniruddha Chatterjee,
Mr. Rahul Karmakar ... For the petitioner.

Mr. Sayantan Bose,
Ms. Anyapurba Banerjee ... For the opposite party.

Affidavit-of-service filed on behalf of the
petitioner be kept with the record.

The revisional application under Article 227
of the Constitution of India is at the instance of the
defendant in a suit for eviction and is directed
against order dated January 05, 2022 passed by
the 3rd Additional Court of learned Civil Judge,
(Junior Division) at Alipore, District – 24 Parganas
(South) in the said suit being Title Suit No. 04 of
2015.

The learned Trial Judge by the order dated
December 08, 2021 had closed the evidence of the
defendant for its continuous default in adducing
evidence.

The defendant filed an application for
recalling of the said order.

The learned Trial Judge by the order
impugned has dismissed the said application
holding *inter alia* that there is a direction by the
High Court for expeditious disposal of the suit but
even thereafter, adjournment was granted to the

defendant as last chance and only thereafter, its evidence was closed.

The suit is pending since 1987, repeated default of the defendant in adducing evidence is apparent on record, therefore, the learned Trial Judge has rightly closed the evidence of the defendant and has rightly refused to recall the order closing the said evidence.

This Court, although does not find any illegality and/or infirmity in the order impugned warranting interference but for ends of justice the defendant may be given a final chance to adduce evidence.

This Court is informed by the learned counsel for the parties that during the pendency of the revisional application the suit has been fixed for delivery of judgment on March 07, 2022.

In spite of such stage of the suit being reached apart from the ends of justice, to avoid any challenge to the decree that may be passed in the suit on the ground that the suit has been decreed without affording the defendant an opportunity to adduce evidence, the defendant is permitted to adduce evidence as the last and final chance on the said next date fixed in the suit subject to payment of costs of Rs. 50,000/- in favour of High Court Legal Services Committee, Calcutta by Monday (March 07, 2022).

If the said costs is paid within the said time, the learned Trial Judge is requested to permit the defendant to adduce evidence on March 07, 2022.

It is made clear that the defendant is required to conclude his evidence-in-chief including proof of documents, if there be any, on the said date itself. It is expected that the plaintiff would conclude the cross-examination of the defendant on the said date.

In the event the learned Trial Judge is unable to record the evidence of the said witness on the said date, she shall fix any future date convenient to her for the said purpose but the evidence-in-chief of the defendant must be concluded in one day.

Any reluctance and/or negligence on the part of the defendant to adduce evidence-in-chief shall entail closure of his evidence and in the event the defendant is found to be negligent to offer itself for the cross-examination, its whole evidence shall be expunged.

C.O. 179 of 2022 is disposed of with the above terms without any 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.)