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C.O. 446 of 2022

**Pinaki Ganguly
Vs
Mridula Mukherjee and Ors**

Mr. Subrato Dutt, ... For the petitioner.

Mr. Debabrata Roy,
Ms. Fatima Hassan, ... For the opposite parties.

Petitioner assails the order dated 25th November, 2021 passed in Misc. Case No. 2230 of 2018 of learned Judge, 2nd Bench, City Civil Court, Calcutta.

Mr. Subrato Dutt, learned advocate appearing for the petitioner submits that originally suit was directed to be dismissed for default at a stage, when besides opposite party/defendant no. 1, no other defendants appeared, pursuant to the service effected.

The fundamental grievance of Mr. Dutt is that the instant Misc case has already been disposed of upon restoring the suit, and the suit has been proceeded without effecting due service upon the remaining defendants, other than defendant No. 1, who is represented by Mr. Dutt.

Mr. Debabrata Roy, learned advocate appearing for the opposite parties disputes with the submission of Mr. Dutt, replying that service has been effected upon all the defendants, but the service report could not be tagged with the case records.

When Misc Case No. 2230 of 2018 has already been disposed of, there is hardly anything left for any further adjudication.

The grievance being inadequate service of summons upon defendants, other the defendant No. 1, the same may be redressed giving a direction, mentioned as follows.

The revisional application is disposed of directing the Court below to adhere to the provisions of service, as available under Order 5 CPC, before the framing of issues, if not already adhered to in the meantime.

This would not, however, prevent the Court below to ensure fresh service upon the defendants, other than defendant No. 1, who has already furnished written statement containing a counter claim therein.

Petitioner is directed to make communication of this order to the learned Court below.

(Subhasis Dasgupta, J)