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**C.O. 705 of 2022**

**Purushottam Chowrasia & Ors.  
Vs.**

**Ashok Singh & Ors.**

Mr. Nilanjan Bhattacharjee,  
Mr. Rishav Thakur.

... For the Petitioners.

Mrs. Nibedita Chakraborty.

....For the caveator/opposite parties

Petitioners assail the order date 25<sup>th</sup> February, 2022 passed by the learned Civil Judge (Junior Division) 4<sup>th</sup> Court Howrah, in Title Suit No. 1065 of 2021 declining to reject the plaint under Order VII Rule 11 of the Code of Civil Procedure Code with costs of Rs.700/-.

Mr. Nilanjan Bhattacharjee, learned advocate appearing for the petitioners/defendants submits that over the self-same subject matter and the parties as well, there has been a suit filed in the year 2005 being Title Suit No. 2006 of 2005 containing prayers similar to the present Title Suit No. 1065 of 2021, now pending before the learned Civil Judge (Junior Division) 4<sup>th</sup> Court, Howrah.

According to the learned advocate for the petitioners omission to disclose the previous institution of suit would entitle the defendants to

seek for rejection of the plaint.

Upon adverting to the Order II Rule 2 of the Code of Civil Procedure, learned advocate for the petitioners contends that there has been serious infraction of the provisions referred hereinabove, and as such the plaint ought to have been rejected by the Court below upon resorting to Order VII Rule 11 of the Code of Civil Procedure.

Per contra Mrs. Nibedita Chakraborty learned advocate representing the caveator/opposite parties submits that the rejection of plaint would be applicable in cases, specifically shown in Order VII Rule 11 of the Code of Civil Procedure. The contention raised by the petitioners, according to the learned advocate for the opposite parties, would not attract any of the provisions contained in Order VII Rule 11 of the Code of Civil Procedure.

More so, the point raised with regard to the Order II Rule 2 of the Code of Civil Procedure has no direct application in the present facts and circumstances of the case.

Previous institution of a suit in the year 2005 between the self same parties containing almost similar prayers, is the subject of challenge in this revisional application, as against the proposed prayer for rejection of the plaint.

The points so raised may be agitated afresh

taking resort to Section 10 of the Code of Civil Procedure, and as such petitioners are not remediless at the moment, even after rejection of the plaint.

In the event of making any alleged suppression of material facts pertaining to the previous institution of the suit, between the self-same parties with identical prayers, petitioners may adhere to the appropriate provisions contained in the Code of Civil Procedure for the desired relief.

Liberty is thus given to the petitioners to approach the Court below taking resort to the appropriate provisions of the law, and if any such petition is filed that may be resolved by the learned court below, providing sufficient opportunity of hearing to either of the parties to this case, but without granting unnecessary adjournments.

With this observation and direction the revisional application stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertakings.

**(Subhasis Dasgupta, J)**