

03.11.2022
SL No.100
Court No.8
(gc)

FMA 2595 of 2015

**Goutam Kumar Dutta & Ors.
Vs.
Arun Kumar Dutta**

The appellants are not represented nor any accommodation is prayed for even in the second call. The matter was initially listed on 28th September, 2022. The appellants were also not represented.

The appeal is arising out of an order passed by the learned Trial Court in connection with an application filed under Order 7 Rule 11 of the Code of Civil Procedure.

We have perused the order impugned. Although we may not concur with the observation made by the learned Trial Court in dismissing the suit but having regard to the fact that the suit for dissolution of partnership is pending, the instant suit could not have been filed as it may result in multifariousness. Moreover, in the event the plaintiffs contended that this is not a dispute between the partners and not for dissolution of the partnership, in that event the suit is barred under Section 69(3) of Indian Partnership Act.

Under such circumstances, we do not wish to interfere with the judgment and order passed by the learned Trial Judge.

The appeal being FMA 2595 of 2015, accordingly, stands dismissed.

However, there shall be no order as to costs.

(Uday Kumar, J.)

(Soumen Sen, J.)