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C.O. 975 of 2022

**Ashoke Das & Ors.
Vs
Subhendu Sinha Roy**

Mr. Gopal Chandra Ghosh,
Mr. R. Mondal, ... For the petitioners.

Mr. Surendra Kumar Sharma,
... For the opposite party.

The subject matter of challenge in this revisional application is against the order dated 15th March, 2022 passed by the learned Civil Judge, (Junior Division), 3rd Court, Bidhannagar in Ejectment Suit no. 62 of 2007, rejecting the petition filed by the defendant proposing for fixation and/or ascertaining the jurisdiction of the subject matter of controversy in the matter of trial of instant case.

Mr. Gopal Chandra Ghosh, learned advocate appearing for the petitioners upon adverting to the averments contained in the petition dated 15th March, 2022, filed by the petitioners/defendants submits that the points raised in the petition have not been gone into by the Court below, as there has been specific disclosure that the status of the sons and daughter of the original defendants/tenant was

nothing but a trespassers, and as such the provisions of Section 2(g) of the West Bengal Premises Tenancy Act ought to have been made applicable over the facts and circumstances of the case.

Per contra, learned advocate appearing for the opposite party/plaintiff/caveator submits that the instant petition is highly harrasive, as the same has been filed at a stage, when the suit is set for collection of evidence.

While making elaboration of such objection, learned advocate for the opposite party submits that in the event of the application being decided afresh, that may cause delay in the disposal of suit. More so, there has already been a direction of this Court requiring the Court below to ensure expeditious disposal of suit within a period, as already stipulated there.

Supporting the order of Court below, learned advocate appearing for the opposite party submits that the jurisdictional issue, as sought to be raised in aid of instant application may be best decided at the time of final hearing of the case, and as such the submission so raised by Mr. Ghosh has no reasonable basis to be considered.

By the impugned order, the learned Court below rejected the prayer of the defendants, pertaining to the jurisdiction of court as regards the trial, in terms

of the factual scenario disclosed in the petition dated 15th March, 2022 filed by the petitioners/ defendants.

Rendering a conscious decision by a Court of law always speaks for adequate address of an issue, may be based on facts on law, without which any decision, if rendered, would not be encouraging one.

In that view of the matter, the impugned order is not sustainable.

The impugned order is set aside, directing the Court below to decide the application dated 15th March, 2022 filed by the petitioners/defendants afresh, providing an opportunity of hearing to either of the parties to this case within ten (10) weeks from the date of communication of this order to the Court below.

Learned Court below is directed to dispose of the petition dated 15th March, 2022 in accordance with the provisions of law upon addressing the points disclosed in the petition, and resolve the same in accordance with provisions of law.

It is however clarified that after causing disposal of the petition, referred hereinabove, it is believed that the Court below will ensure expeditious disposal of suit upon sensing the purport and message already conveyed in C.O. 1025 of 2020.

With this direction and observation, the revisional application is disposed of.

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

(Subhasis Dasgupta, J)