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C.O. 1711 of 2022

**Smt. Rita Banerjee
Vs
Sri Soumen Ghosh**

Mr. Swapan Banerjee,
Mr. Tirupati Mukherjee, ... For the petitioner.

Mr. Swapan Banerjee, learned advocate appearing for the petitioner/defendant adverting to order passed by this Court in C.O. 108 of 2022 dated 16th February, 2022 and the subsequent modified order dated 23rd February, 2022 submits that there has been a previous direction passed by this Court requiring the Court below to ensure expeditious disposal of an interlocutory application under Order 7 Rule 11 of the CPC, filed by the petitioner/defendant within a month, as stipulated therein.

It is contended by Mr. Banerjee that without ensuring compliance of such direction, the Court below has proceeded to dispose of the suit upon setting the suit for ex parte hearing on a different perspective, what was not at all directed to be complied with, as per order of this Court.

The previous direction passed by this Court regarding expeditious disposal of interlocutory application for rejection of the plaint was duly communicated to the Court below, including the modified order passed in C.O. 108 of 2022.

It is contended by Mr. Banerjee that the order passed by the Court below setting the suit for ex parte hearing is not according to the law, as the order passed by the High Court in C.O. 108 of 2022 has not been properly understood in its true perspective.

A recalling application was thereafter filed on 22nd April, 2022 by the petitioner/defendant with an objective that the direction passed by this High Court in connection with C.O. 108 of 2022 may be strictly adhered to, without insisting upon the further movement of the suit, so as to ensure expeditious disposal of interlocutory application. That petition filed on 22nd April, 2022 has been posted for hearing on 18th July, 2022.

In view of the nature of the order proposed to be made in this case, no prior notice is considered to be necessary upon the opposite party.

Service of notice of this application upon opposite party stands dispensed with.

The undenying position is that there has been a direction for expeditious disposal of an interlocutory application under Order 7 Rule 11 of the CPC filed by the petitioner/defendant.

Somehow it escaped the notice of the Court below, while endeavouring the suit to be posted for ex parte hearing, for the written statement not being filed within the statutory period, as available under Order 8 Rule 1

of the CPC.

That being the position, the interlocutory application filed by the petitioner/defendant under Order 7 Rule 11 has to be disposed of in accordance with law, before endeavouring to reach logical conclusion of the suit in a faster mode.

As per submission disclosed by Mr. Banerjee, the recalling application has not yet been disposed of, and still it is kept pending by the Court below.

The revisional application as such be disposed of directing the Court below to ensure expeditious disposal of recalling application in context with the order passed by this Court on 16th February, 2022, and subsequently modified on 23rd February, 2022 passed in C.O. 108 of 2022 either on the scheduled date fixed by the Court below, or if for any reasons whatsoever, the same could not be done, the recalling application coupled with the application for rejection of the plaint filed under Section 7 Rule 11 of the CPC may be disposed of peremptorily within three weeks thereafter, providing sufficient opportunity of hearing to either of the parties to this case, but without granting unnecessary adjournments, unless it is extremely unavoidable.

This Court reposes trust and confidence upon the Court below that while making consideration of the recalling application, the message communicated to the

Court below vide C.O. 108 of 2022 would be strictly considered.

Petitioner is directed to make communication of this order to the learned court below as well as to the learned advocate appearing in the court below for the opposite party and the opposite party.

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

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

(Subhasis Dasgupta, J)