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C.O. 2041 of 2022

**Mr. Surajit Basu
Vs
Motor Fuel & Stores Pvt. Ltd**

Mr. S. Pal Choudhuri,
Ms. Sudha Adak,
... For the petitioner.

Mr. Ratul Das,
Mr. Kaushik Mondal,
... For the opposite party.

Petitioner assails order dated 14th June, 2022 passed by learned Judge, 2nd Bench, City Civil Court Calcutta in Title Suit No. 449 of 2020, rejecting a petition under Section 151 of the Code of Civil Procedure.

Admittedly, in a suit for eviction of a licensee instituted against the petitioner, an application under Section 151 of the code of Civil Procedure was filed with a prayer for adjudication as to whether the petitioner is a defaulter in making payment of rent or not.

Learned advocate appearing for the petitioner submits that the Court below rejected the prayer without entering into the merits of the case and without providing the petitioner an opportunity of hearing after rejecting the prayer for adjournment

proposed by the petitioner.

It is also submitted by the petitioner that he is a tenant and written statement has already been filed with a counter claim in support of his case.

Mr. Ratul Das, learned advocate appearing for the opposite party disputes with the submission advanced by the petitioner, replying that the entire purpose of this petition is to cause delay to the disposal of the case, apart from causing harassment to the opposite party/plaintiff.

It is submitted by the learned advocate for the opposite party that the petitioner purposefully avoided taking part in the hearing process on a number of dates fixed earlier, and on the scheduled date deliberately remained absent, upon advancing a prayer for adjournment.

In a situation like this, learned advocate appearing for the opposite party submits that no latitude should be given to the petitioner for his negligent conduct, already established in the case record.

As per submission disclosed by the petitioner, a written statement containing counter claim has already been filed by the petitioner, against a suit already instituted against the petitioner describing him to a licensee. When it is the only contention expressed by the petitioner that no opportunity of

hearing was granted to the petitioner, while deciding the petition under Section 151 of the CPC, this Court is of the view that there will be no prejudice caused to the opposite party, if the application is decided afresh giving an opportunity of hearing to either of the parties to this case within a specified period of time.

For the discussion made hereinabove, the revisional application be disposed of, upon setting aside the order dated 14th June, 202 passed by learned Judge, 2nd Bench, City Civil Court Calcutta in Title Suit No. 449 of 2020, with a direction upon the Court below to hear out the petition under Section 151 CPC afresh within a fortnight after Puja vacation of the Court below, providing sufficient opportunity of hearing to either of the parties to this case, but without granting unnecessary adjournment, unless it is extremely unavoidable.

It is, however, clarified that this order is passed without going into the merits of the petition, and without prejudice to the rights and contentions of the parties.

Parties are directed to make communication of this order to the learned court below.

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)