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sandip
Ct. 18
08.03.2022

**C.O. No. 3089 of 2019
(Via Video Conference)**

**Sri Asit Nagchoudhury
Vs.
Sri Sanat Nagchoudhury & Ors.**

Mr. Arik Banerjee,
Mr. Pujon Chatterjee ... For the petitioner.

Affidavit-of-service filed by Mr. Arik Banerjee,
learned advocate for the petitioner is taken on
record.

In spite of service none appears on behalf of
opposite parties.

The plaintiff in a suit for partition is the
petitioner of the present application under Article
227 of the Constitution of India and is directed
against Order No. 16 dated June 18, 2019 passed
by the learned Judge, 12th Bench, City Civil Court
at Calcutta in Title Suit No. 986 of 2018.

The learned Trial Judge by the order
impugned has disposed of an application under
Order VII Rule 11 of the Code of Civil Procedure.

Mr. Banerjee submits that the application
under Order VII Rule 11 of the Code was allowed on
the date of its filing without giving the plaintiff an
opportunity to file any objection or to contest the
said application.

In the order impugned it has not been spelt
out whether the plaint of the said suit has been

rejected in consequence of disposal of the said application. Tenor of the order creates confusion regarding the appealability of the said order.

However, the impugned order is absolutely cryptic and is not supported by any reason, as such, liable to be set aside on the said ground alone.

The order impugned, is therefore, set aside. C.O. 3089 of 2019 is disposed of with the request to the learned Trial Judge to decide the said application under Order VII Rule 11 of the Code afresh in accordance with law.

There shall be no order as to costs.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)