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**C.O. 3639 of 2022**

**Md. Salauddin & Ors  
Vs  
Shamsher Ali & Ors**

Mr. Aniruddha Chatterjee,  
Mr. Sounak Bhattacharya,  
Mr. Avirup Chatterjee,

... For the petitioners.

Mr. Sanjay Mukherjee, ... For the opposite parties.

While assailing the impugned order dated 24<sup>th</sup> November, 2022 passed by Waqf Tribunal in Suit No. 30 of 2021, Mr. Aniruddha Chatterjee, learned advocate appearing for the petitioners submits that despite the direction passed in C.O. 3144 of 2022 requiring the Waqf Tribunal to dispose of application under Order 7 Rule 11 CPC expeditiously, preferably within second week after Puja Vacation of the Court below, the application under Order 7 Rule 11 of the CPC could not be disposed of, though there has been extensive hearing already given by the Tribunal to that effect for the purpose.

It is further submitted by Mr. Chatterjee that while recording such direction in C.O. 3144 of 2022, the pendency of amendment application, and the cognizance of such application was very much there in the Waqf Tribunal, and inspite of pendency of such amendment application, there has been extensive hearing given pertaining to Order 7 Rule 11 CPC.

Mr. Sanjay Mukherjee, learned advocate appearing for the opposite parties raises objection, submitting that there are multiple revisional applications filed before this Court, and some of which have already been disposed of, and few are pending.

It is thus submitted by the learned advocate appearing for the opposite parties that the impact of decision be returned in the pending civil revision application may affect the decision to be returned by the Court below in connection with Order 7 Rule 11 CPC.

Mr. Mukherjee proposes, however, for amendment application to be taken up first, otherwise there may be unfair decision reached by the Court below.

Having considered the submission of both sides, it appears that it is not the purpose of this Court to give primacy over any particular pending interlocutory application. Purpose of the Court is to secure justice ensuring a balance to the extent possible between the fighting litigants.

Though, it is the settled proposition of law that amendment application may be decided first pending hearing of Order 7 Rule 11 CPC, but when there has been extensive hearing given pertaining to the application under Order 7 Rule 11 CPC, as it is disclosed in the submission of Mr. Chatterjee, this Court is of the view that for the peculiarity of the circumstances involved in this case, the amendment

application, and the application for rejection of the plaint under Order 7 Rule 11 CPC may be heard together, giving sufficient opportunities of hearing to both the parties, so that there may be justice ensured in the given set of facts, which may not be generalised in any other cases.

There is nothing available at this moment, to reveal that there is a stay order operative over the proceedings pending before the Waqf Tribunal.

The revisional application stands disposed of.

Parties are directed to make communication of this order.

The impugned order stands modified to the extent mentioned hereinabove. Other portions of the order will remain unaltered.

**Subhasis Dasgupta, J)**