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C.O. 3737 of 2022

**Smt Puspa Rani Bhaumik @ Puspa Bhaumik
Vs
Sri Soumen Bhoumik & Anr**

Mr. Iftekar Munshi,

... For the petitioner.

Mr. Rishab Ahmed Khan, ... for the opposite parties.

Mr. Iftekar Munshi, learned advocate appearing for the petitioner while assailing the impugned order dated 12th July, 2022 passed in Title Suit No. 107 of 2018 of learned Civil Judge (Senior Division), Bongaon, submits that in view of admission disclosed in the written statement, submitted by the defendant no. 1 paving the way for granting a decree on admission in aid of Order 12 Rule 6 CPC, the suit may not be allowed to be proceeded as against defendant no. 2, against whom there has already been an order that the suit will be decided against defendant no. 2 due to her non participation.

Mr. Rishab Ahmed Khan, learned advocate appearing for the opposite parties no. 1/defendant no. 1 submits that there has been admission disclosed in the written statement submitted by defendant no. 1.

The written statement though directed to be filed by the defendant no. 2 as per order of this Court passed in C.O. No. 4131 of 2019, with some cost, but

the written statement has not been filed as yet. The principal relief sought to be obtained, according to Mr. Munshi, is against defendant no. 1. Defendant No. 2 happens to be the wife of defendant no. 1. Thus due to non submission of written statement filed by the defendant no. 2, the suit has been allowed to be proceeded ex parte, as against defendant no. 2.

In a situation like this, the revisional application stands disposed of, directing the Court below to decide the application filed under Order 12 Rule 6 CPC prior to going ahead with the suit ex parte, as against defendant no. 2.

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

(Subhasis Dasgupta, J)