

**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI**

06.06.2022

Item no. **15**

Dd

CO. 39 of 2022

**Shree Karani Nirman Private Limited & Anr.
Vs.
Sri Ram Krishna Agarwala & Ors.**

*Mr. Subham Ghosh,
Mr. Jagadish Chandra Roy, Advocates
... .. For the Petitioners/defendants*

The revisional application is directed against the order no. 10 dated April 5, 2022 passed by the learned Civil Judge, Junior Division at Jalpaiguri in Title Suit No. 159 of 2021. By the impugned order, the learned Judge dismissed the application claimed to be under Order 14 Rule 2(2) of the Code of Civil Procedure, 1908.

Learned advocate appearing for the petitioners submits that the learned Judge ought to have decided the issue of maintainability of the suit prior to deciding any other issues in the suit.

By the impugned order, the learned Judge after considering the materials on record and the authorities cited at the Bar, was of the view that the oral and documentary evidences are required for deciding the actual state of affairs between the parties. Essentially, the learned Judge held that the issues raised in the suit are so intricably intertwined that the issue of

maintainability cannot be decided in isolation. Learned Judge thought it prudent to permit the parties to adduce oral and documentary evidence prior to deciding all the issues raised in the suit.

There is no material irregularity in the impugned order warranting an interference by the High Court under Article 227 of the Constitution of India. Order 14 Rule 2(2) of the Code of Civil Procedure permits decision of all the issues raised in the suit unless the learned Judge in seisin of the trial of the suit is of the view that the issue of jurisdiction or the suit being barred by any law for the time being in force are required to be decided first. The facts of the present do not permit the Court to render a finding that, the issue of jurisdiction of the Court involved or that the suit is barred by law on the basis of the pleadings of the plaint.

In such circumstances, there being no material irregularity in the impugned order, no interference is called for under Article 227 of the Constitution of India.

Learned advocate appearing for the petitioners submits that the suit may be disposed of as expeditiously as possible.

The petitioners are the defendants in the suit. Since the defendants are seeking expeditious disposal of the suit, it would be appropriate to request the learned Judge to dispose of the suit as expeditiously as possible without granting any unnecessary adjournments to any of the parties.

The petitioners will serve a copy of this revisional application along with order passed therein upon the opposite parties for their records, within 7 days from date.

CO 39 of 2022 is disposed of, accordingly.

(Debangsu Basak, J.)