

24.03.2023
Ct. No.237
SL No.06
Rup

C.O. 160 of 2023

Shyamal Kumar Chatterjee.
Vs
Smt. Indrani Ganguli

Mr. Saptanshu Basu, Sr. Adv.
Mr. Gourav Purkayastha,
Ms. Atasi Sarkar
... For the petitioner.

Mr. Debabrata Sen,
Mr. Arun Kumar Das
Mr. Abhiraj Tarafder
... For the opposite party.

The impugned order No.42 dated 1st December, 2022 passed by the learned Judge-in-charge, Xth Bench, City Civil Court, Calcutta, in connection with Title Suit No.1286 of 2016 is under challenge.

Heard both sides.

Mr. Saptanshu Basu, learned senior advocate appearing on behalf of the petitioner has referred to an order passed by the Coordinate Bench of this Court dated 04.11.2022 in connection with CO 09 of 2022, whereby Hon'ble High Court directed the learned Trial Court to hear the application for rejection of plaint under Order VII Rule 11 of the Civil Procedure Code together with amendment

application under Order VI Rule 17 of the Civil Procedure Code.

Following the direction in C.O. 09 of 2022, learned Trial Court took up both the applications under Order VI Rule 17 of the Civil Procedure Code as well as application under Order VII Rule 11 of the Civil Procedure Code for hearing. Learned Judge in the impugned order dealt with the application under Order VI Rule 17 of the Civil Procedure Code all through and ultimately Order VI Rule 17 was allowed subject to payment of cost. But, learned Judge did not dispose of the application under Order VII rule 11 of the Civil Procedure Code on its merit by observing as follows:

“ In view of the fact that petition under Order 6 Rule 17 of the CPC has been allowed by this court, the petition under Order 7 Rule 11 of the CPC cannot be considered and allowed at this stage and the same stands rejected.”

Mr. Basu, learned senior advocate, further submitted that he has nothing to submit in respect of the order passed allowing the petition under Order VI Rule 17 of the Civil Procedure Code subject to cost of Rs.5000/-.

In the aforesaid view of the matter, I find that necessary direction should be given to the learned Trial Judge for disposal of the application under Order VII Rule 11 of the Civil Procedure Code after giving an opportunity of

hearing to the parties to the suit within one month from the date of receipt of this order.

With this aforesaid 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.

(Bibhas Ranjan De, J.)