

31.07.2023
Sl. No.12(DL)
srm

C.O. No. 177 of 2023

China Dhara

Versus

Sri Santosh Kumar Sharma

Mr. Ranjan Kali,
Ms. Mitul Chakraborty,
Ms. Mili Saha,
Ms. Payel Nath

...for the Petitioner.

This Court is of the view that the revisional application at the instance of the borrower cannot be entertained only on the ground that the borrower had filed an application under Order VII Rule 11 of the Code of Civil Procedure before the learned Civil Judge (Junior Division), 1st Court, Serampore, Hooghly, in connection with Title Suit No.346 of 2021, which was kept pending.

By the order impugned, the learned court below directed that the suit should proceed *ex parte* against the defendant No.1. It does not appear that the defendant No.2 has filed the written statement.

The petitioner is the defendant No.2 and submits that application under Order VII Rule 11 of the Code of Civil Procedure should be heard first.

It does not appear from the order impugned that the defendant No.2 had approached the learned court with a prayer that the application under Order VII Rule 11 of the Code of Civil Procedure, should be heard first. Secondly, the suit was fixed *ex parte* against the defendant No.1. The defendant No.1 is not before this Court. Thirdly, the petitioner is always at liberty to take steps in accordance with law.

The revisional application is, thus, dismissed.

There shall be no order as to costs.

The petitioner is at liberty to approach the learned court below with her prayer for acceptance of the written statement and also with a prayer for early hearing of her application for rejection of the plaint. The learned court below shall decide such applications on contest, upon allowing the parties to the suit to file necessary objections. If such applications are filed, those shall be decided in accordance with law and expeditiously. This court has not entered into the merits of the pending applications and the suit.

Parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)