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**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE**

C.O. 355 of 2023
(Sukumar Mukhopadhyay @ Sadhan vs. Mangal Gurung & Ors.)

Ms. Malyasree Maity
.... For the Petitioner

Mr. Jayanta Mitra
.... For the Respondent Nos. 1 & 2

The order No. 4 dated 21st November, 2022 as well as order No. 6 dated 30th November, 2022 have been challenged in this revisional application.

By the order No. 4 learned Judge dealt with an application under Section 5 of the Limitation Act filed on behalf of the petitioner/defendant No. 1.

On careful perusal of the order No. 4 dated 21st November, 2022 I find that the learned trial Judge rightly observed the issue of limitation in terms of refusal of performance. Learned trial Judge also observed the issue in terms of date of cheque drawn on Uco Bank in favour of the defendant No. 1 on behalf of the plaintiff proving the instrument was not tampered.

Considering all aspects I find no reason to interfere with the order No. 4 dated 21st November, 2022. However, the issue of limitation in the suit is a mixed question of law and fact and that can be raised at the time of trial of the suit also.

So far as the order dated 30th November, 2022, I find that the learned trial Judge took up the application under Order VII Rule 11 of the Code of Civil Procedure filed on 25th November, 2022 and held that issue of deficit court fees raised in the application under Order VII Rule 11 has already been discussed in the earlier order No. 4 dated 21st November, 2022.

On careful perusal of the order dated 21st November, 2022 I do not find any observation on the issue of deficit court fees.

Therefore, learned trial Judge is requested to hear the application under Order VII Rule 11 of the Code of Civil Procedure filed on 25th November, 2022 after giving an opportunity of hearing to both the parties to the suit as expeditiously as possible.

With the aforesaid observation, the revisional application stands disposed of.

All the parties shall act on the server copy of this order duly downloaded from the official web site of this Court.

(Bibhas Ranjan De, J.)