

28.04.2023
Item No. 150
Ct. No. 237
RUP

CO. 651 of 2023

Sri Manoj Kumar Bothra & Anr.
Vs.
Kishan Ganeriwal Huf

Mr. Jishnu Chowdhury,
Ms. Joey Chatterjee.
Mr. Soumyadeb Sinha
Mr. Abhishek Roy For the petitioners.

Mr. Rahul Karmakar,
Mr. Rajesh Upadhyay. ... for the opposite party.

Affidavit of service filed by the petitioner be taken
on record.

The order dated 6th January, 2023 in connection
with Title Suit No. 587 of 2021 is under challenge in
this revisional application.

Mr. Jishnu Chowdhury, learned advocate
appearing on behalf of the petitioners has submitted
that learned Judge recorded the order of rejection of an
application for striking out defence only on the ground
of an order dated 16.09.2022 directing the defendant to
pay Rs.27,05,325/- within 30 days from the date of the
order, has been challenged in a civil revisional being CO
No. 3191 of 2022 even without passing any stay order.

It is not intelligible that what prompted the
learned Judge to reject the application with a prayer for
striking out defence, only on the ground of pendency of

the revisional application challenging the order dated 16.09.2022 directing defendant to pay money. Learned Judge could have kept pending the application till the disposal of the civil revision challenging the order dated 16.09.2022 but instead of that learned Judge rejected the application with prayer of striking out the defence.

I find both illegality and infirmity in the order impugned and it is liable to be set aside.

Accordingly the order dated 6th January, 2023 passed by the learned Civil Judge (Senior Division), 4th Court, Alipre, South 24 Parganas stands set aside.

With this observation and direction, 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.)