

C.O. 384 of 2014

In the matter of : Dr. Munawar Ali & Anr.

1. None appears on behalf of the petitioners.
2. The matter is appearing almost after nine years.
3. The conduct of the petitioners demonstrates lack of interest to proceed with the lis.
4. In view of the Hon'ble Supreme Court in the case of **Robin Thapa vs. Rohit Dora** reported in **AIR 2019 SCC 3225** held that ;

“8. Ordinarily, a litigation is based on adjudication on the merits of the contentions of the parties. Litigation should not be terminated by default, either of the plaintiff or the defendant. The cause of justice does require that as far as possible, adjudication be done on merits.”

5. Therefore, I am inclined to dispose of the application on merit based on materials available with the record.
6. This application under Article 227 of the Constitution of India impeaches the Order No. 66 dated 20.7.2013 passed by learned Civil Judge, Senior Division, Asansol in Title Suit No. 49 of 2003.
7. Briefly stated, the plaintiff filed a suit for declaration of title and recovery of arrear dues towards licence fees from the defendant which is equivalent to the price of vegetable to be given by the defendant to the plaintiff.

8. The defendant by filing the application under Order VII Rule 11 of the Code of Civil Procedure contending inter alia that the predecessor-in-interest of the defendant was a Bargadar under the plaintiff and Civil Court lacks jurisdiction under Section 21 of the West Bengal Land Reforms Act, 1955
9. Learned Trial Court was made to go through the judgement in T.S. No. 17 of 1989 a suit was dismissed on contest and learned Civil Judge, Junior Division, 2nd Court, Asansol held that father of the defendant was a Bargadar under the plaintiff.
10. Section 21(3) of the West Bengal Land Reforms Act 1955 debars the Civil Court to entertain any suit or proceeding in respect of Sections 17, 18, 19B and 20B.
11. Here the plaintiff since raised the dispute and intended to recovery to produce or value thereof, learned Trial Court was absolutely justified in rejecting the plaint, the order impugned does not warrant any interference.
12. The revisional application is devoid of merit and is dismissed along with application, if any, however, without any order as to costs.
13. Let a copy of the order be sent down to the learned Trial Court for information and necessary action.

(Siddhartha Roy Chowdhury, J.)