

C.O. 837 of 2003

In the matter of : D. Bose & Brothers

As usual none is appearing on behalf of the petitioner.

This revisional application is awaiting adjudication for twenty years. On the last occasion i.e. on 23.6.2023 the matter was adjourned suo moto.

In view of the mandate of Hon'ble Supreme Court given 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."

Under such circumstances, I am inclined to dispose of the application on merit.

This revisional application challenges the order dated 25.3.2003 passed by the learned Civil Judge, Senior Division, Raigunj in Misc. Appeal No. 2 OF 1997 setting aside the order of injunction passed by the learned Trial Court. By filing a suit before the learned Trial Court the petitioner as plaintiff sought for declaration that the work order given by the opposite party nos. 1 to 5 to execute certain development work was illegal and for mandatory injunction to issue work order in favour of the plaintiffs / petitioners. In the said suit an application for temporary injunction was filed. The learned Trial Court after considering the submission of the parties was pleased to restrain the defendant nos. 2 and 3

to give any effect to the work order passed on 28.2.1997 or to execute the work order till the disposal of the suit. The order impugned passed by the learned Trial Court was sufficient to impede the work of development and it was rightly dismissed by learned Civil Judge, Senior Division. The order impugned does not warrant any interference as there is neither any perversity nor any jurisdictional error committed by the learned Civil Judge, Senior Division Raipur, Uttar Dinajpur while passing the order.

The revisional application merits no consideration and is dismissed.

Interim order of stay, if any, stands vacated.

Let a copy of the order be sent to the learned Trial Court for information and necessary action.

(Siddhartha Roy Chowdhury, J.)