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CRR 1014 of 2016

**Sandeep Tradex Pvt. Ltd.
versus
The State of West Bengal & Ors.**

Mr. Satadur Lahiri,
Mr. A.P. Agarwalla,
.... For the petitioner.

Mr. Naresh Narayan Kohli ... respondent no.3 (in person).

Ms. Faria Hossain
Mr. Anand Keshari ... for the State.

This revisional application has been filed assailing the order dated 10th September, 2015 passed by the learned Chief Metropolitan Magistrate, Kolkata, whereby learned Magistrate accepted final report of mistake of fact and dropped the proceeding in connection with G.R. Case No. 930 of 2014.

Heard learned advocates appearing on behalf of the petitioner as well as opposite party no.3 appearing personally in this case and also learned advocate appearing on behalf of the State.

On careful scrutiny of the order dated 20.08.2015 as well as order dated 10.09.2015, I find that learned Chief Metropolitan Magistrate directed issuance of notice upon the de-facto complainant for appearance before the court after submission of report of mistake of fact. But service return was not received by this court, meaning thereby notice was not served upon the de-facto complainant when the order impugned was passed

accepting the report of mistake of fact submitted by the investigating officer.

Before accepting the report of mistake of fact submitted by investigating officer, opportunity of hearing to the complainant is sine qua non.

On that score the order dated 10.09.2015 stands set aside.

Learned Chief Metropolitan Magistrate, Kolkata is requested to give an opportunity of hearing of both the parties to this case, before accepting the report of mistake of fact submitted by investigating officer.

Both petitioner as well as opposite party nos. 2 and 3 shall appear before the Court of learned Chief Metropolitan Magistrate, Kolkata within two weeks from the date of communication of this order.

With the above observation, the revisional application stand disposed of.

Let the copy of this order be communicated to the learned Chief Metropolitan Magistrate, Kolkata.

All parties to this revisional application shall act on the server copy of this order downloaded from the official website of this Court.

(Bibhas Ranjan De, J.)