

S/L 58
20.01.2023
Court. No. 12
Suwayan

CO 1314 of 2022
With
IA No: CAN 1 of 2022
(Application not here)

Raj Conclave Pvt. Ltd.
Vs.
Sri Ranbir Singh & Ors.

Mr. Krishna Das Poddar

...for the petitioner.

Mr. Souvik Das
Mr. Rudranil Das

...for the opposite parties.

Both sides are represented by their respective learned Advocates.

In this revisional application the Order Nos. 54 and 55 dated 20.04.2022 and 07.05.2022 passed by the learned Civil Judge (Jr. Division), 4th Court, Howrah respectively in T.S. 1220 of 2017 are the subject matter of challenge.

Heard learned Advocates for both sides.

Perused the entire materials as placed before this Court including the impugned order. It appears to this Court that before the learned Trial Court in Title Suit No. 1220 of 2017 the defendant No. 2 initially did not turn up either personally or through his learned Advocate and accordingly the said Court directed with the said suit would be heard against him *ex parte*. However, on 20.04.2022 the defendant No. 2 filed his Vokalatanama along with a petition under Order 32 Rule 3 of the Code of Civil Procedure. It further reveals that on the next date,

that is, on 07.05.2022 the said defendant No. 2 filed a show-cause petition along with a written statement with counter claim and also filed an application under Section 151 of the Code of Civil Procedure. It reveals that by the impugned order dt. 07.05.2022 learned Trial Court only fixed a date for hearing of the petition under Order 32 Rule 3 of the Code of Civil Procedure but no date has been fixed in respect of the other petitions as filed by the defendant No. 2 on 07.05.2022 including the point of acceptability of the written statement with counter claim. Such being the position this Court in exercise of its plenary power under Article 227 of the Constitution of India directs the learned Trial Court to hear out all the petitions as filed either by the defendant No. 2 or on his behalf on 20.04.2022 and 07.05.2022 within a month from the date of communication of this order. Liberty is given to the plaintiff of Title Suit No. 1220 of 2017 to file its objection(s) as against the petitions as filed either by or on behalf of the defendant No. 2.

It is made clear that all points including the points of maintainability of the petitions as filed either by defendant No. 2 or on his behalf on 20.04.2022 and 07.05.2022 are kept open.

It is also made clear that in the event that learned Trial Court remains absent on the day of hearing of those applications, the Judge-in-Charge of the said Court shall have to dispose of the said applications according to its merit. It is also made clear that the time limit as fixed by this court is mandatory.

With the aforementioned observation the instant revisional application being CO 1314 of 2022 along with CAN 1 of 2022 are disposed of.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

(Partha Sarathi Sen, J.)