

26.9.2023

ct. 236

sk,sl. 28

C.O.981 of 2013

CAN 2/2023

Mr. Debababrata Mukherjee-vs-Ranjan Kr. De & Ors.

1. None appears on behalf of the petitioner.
2. The matter is appearing almost after 10 years.
3. The Hon'ble Supreme Court in Robin Thapa

Vs Rohit Dora, reported in AIR 2019 S.C.C. 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”.

4. This application under Article 227 of the Constitution of India challenges the Order No. 36 dated 8.2.2013 passed by the learned Judge, Third Bench, Small Causes Court at Calcutta in Ejectment Suit No. 367 of 2006-C.

5. Briefly stated, Shri Ranjan Kumar De, the opposite party herein filed a suit for eviction of tenant before the learned trial court. The tenant, Debabrata Mukherjee filed an application under Order 7 Rule 11 of the Code of Civil Procedure seeking rejection of plaint on the ground that learned trial court lacks of jurisdiction to entertain such suit.

5. Relying upon the amended provision of West Bengal Premises Tenancy Act, 1997 as laid down under Section 12A, Schedule IV the Court of Small Causes have been conferred with jurisdiction to try eviction suit the amendment though was effected on 9th June, 2009, it was given retrospective effect from 10.1.2001. Such provision also validates all acts done and all actions taken under the West Bengal Premises Tenancy Act, 1997 from 10.1.2001 till 9th June, 2009.
6. With the aforesaid observations leaned trial court rejected the petition under Order 7 Rule 11 of the Code of Civil Procedure.
7. The order impugned does not suffer from any jurisdictional error and there is nothing to hold that the order suffers from any kind of perversity.
8. The revisional application is bereft of merit and is dismissed.
9. The application being CAN 2 of 2023 is disposed of.
10. The interim order of stay, if any, stands vacated.

(Siddhartha Roy Chowdhury,J)