

In the matter of : Ratan Mondal

As usual none is appearing on behalf of the petitioner.

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."

This revisional application challenges the order passed by learned Civil Judge, Junior Division, 3rd Court, Diamond Harbour dismissing the application under Order XXXIX Rule 7 of the Code of Civil Procedure in a case under Section 44 of T.P. Act.

I have perused the order impugned.

The defendant has filed the application to bring on record something extraneous to the issues involved in the suit. The defendant by filing the application wants to trace out if there a pathway running over the Plot No. 360 to get to Plot No. 361. Learned Trial Court was absolutely justified in dismissing the application.

The impugned order does not warrant any interference.

The revisional application is bereft of merits and is dismissed, along with application being CAN 1 of 2015.

There shall be no order as to costs.

Interim order of stay, if any, stands vacated.

Copy of the order be sent down to the learned Trial Court
for information and necessary action.

(Siddhartha Roy Chowdhury, J.)