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03.7.2023
Ct. 236
SB

C.O. 1493 of 2014
CAN 1 of 2016

In the matter of : Echha Mondal

As usual none is appearing on behalf of the petitioner.

The matter was earlier adjourned twice on 07.6.2023 and 14.6.2023.

In view of the order dated 14.6.2023 I am inclined to dispose of the revisional application on merit based on materials available with the record.

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 under Article 227 of the Constitution of India challenges the Order No. 90 dated 27.1.2014.

By the impugned order learned Trial Court decided the application filed by the plaintiff to impeach the testimony of D.W. 1 in the suit. Evidence or testimony of witness on record cannot be impeached by an order when one of the parties to the suit adduced evidence in support of the pleadings.

Learned Trial Court was absolutely justified in testimony the application.

This revisional application does not have any merit and stands dismissed along with application CAN 1 of 2016, however, without any 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.)