

23
12.7.2023
Ct. 236
SB

C.O. 1524 of 2014

In the matter of : Sk. Layek Ali & Ors.

None appears on behalf of the petitioners.

Earlier on 07.6.2023 and 14.6.2023 matter was adjourned suo moto in absence of learned counsel representing the petitioners.

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."

Under such circumstances, I am inclined to dispose of the application on merit.

This revisional application under Article 227 of Constitution of India impeaches the Order No. 83 dated 02.4.2014 passed by the learned Civil Judge (Junior Division) Uluberia, Howrah in Title Suit No. 98 of 2005. After the cross-examination of P.W. 1 was over and suit was fixed for evidence on defence witnesses, the application for amendment of plaint was filed by the plaintiff / petitioner to incorporate certain facts to neutralize the probative value of testimony of P.W. 1 that has come on record. Learned Trial Court was absolutely right in holding that the amendment sought to be incorporated is a ploy to fill up the lacuna of the

plaintiff / petitioner. The order impugned neither suffers any perversity nor there is any jurisdictional error. Impugned order does not warrant any interference.

The revisional application is dismissed.

Interim order of stay, if any, stands vacated.

Let a copy of the order be sent to the learned Trial Court for information and necessary action.

(Siddhartha Roy Chowdhury, J.)