

C.O. 2288 of 2014

In the matter of : Balkishan Kayan

Earlier on 07.6.2023 and 15.6.2023 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 challenges the order dated 28.4.2014 passed by learned Judge, XIIth Bench, City Civil Court, Calcutta in Title Suit No. 350 of 2012. By the impugned order learned Trial Court was pleased to reject the application under Order VII Rule 11 of the Code of Civil Procedure filed by the defendant on the ground that the suit so filed does not disclosed any cause of action.

Upon perusal of the materials on record as well as impugned order, I do not find any substance in the averment so made by the defendant / petitioner before the learned Trial Court Paragraph 12 of the plaint is eloquent enough about the cause of

action. The order impugned can neither said to be perverse nor there is any manifestational jurisdictional error.

The revisional application is bereft of merit and is dismissed, however, without any order as to costs.

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.)