

S/L 19
27.09.2023
Court. No. 29
Suvayan

CO 3651 of 2022

**M/s Xclusive Inn Private Limited & Anr.
Vs.
Anjana Guha & Ors.**

*Mr. Ashim Kumar Roy
Mr. Anirban Roy*

...for the opposite party nos. 1 to 3.

1. None appears for the petitioners.
2. Mr. Roy, learned Advocate for the plaintiffs/opposite party Nos. 1 to 3 is present.
3. Heard Mr. Roy, learned Advocate for plaintiffs/opposite party Nos. 1 to 3.
4. Perused the certified copy of the impugned Order No. 21 dated 21.09.2022 as passed in Title Suit No. 5 of 2021 by the learned Commercial Court, Rajarhat, North 24 Parganas whereby and whereunder the said Court rejected the defendants/petitioners' application for return of plaint as filed under Order VII Rule 10 of the Code of Civil Procedure.
5. In course of hearing Mr. Roy, learned Advocate for the plaintiffs/opposite party Nos. 1 to 3 has handed over a server copy of Order No. 28 dated 10.07.2023 as passed in Title Suit No. 5 of 2021 by the learned Trial Court whereby a summary judgment was passed in favour of the plaintiffs/opposite parties to the extent of eviction of the defendants/petitioners before this Court. Mr. Roy in course of hearing has also handed over a server copy of the order dated 17.08.2023 as passed in connection with

CAN 1 of 2023 in FAT 270 of 2023 by Hon'ble Division Bench of this Court. It is submitted by Mr. Roy that challenging the said summary judgment of eviction the aforementioned appeal being FAT 270 of 2023 has been preferred before this Hon'ble Court and the same is still pending.

6. Mr. Roy, thus, submits before this Court that in view of the subsequent progress of Title Suit No. 5 of 2021 as well as in view of passing of summary judgment under Order XIIA of the Code of Civil Procedure to the extent of eviction of the present petitioners the instant revisional application has practically become infructuous and accordingly it has been prayed on behalf the plaintiffs/opposite party Nos. 1 to 3 that the instant revisional application may be dismissed.

7. On perusal of the entire materials as placed before this Court including the authenticated server copy of Order No. 28 dated 10.07.2023 as passed in Title Suit No. 5 of 2021 by learned Trial Court, this Court is in agreement with the submission of Mr. Roy that since the learned Trial Court has already passed a summary judgment to the extent of eviction of the present petitioners and since the present petitioners have carried the said summary judgment before the Hon'ble Division Bench in appeal, there is nothing left to be decided in this revisional application.

8. In view of the discussion made hereinabove, this Court holds that the instant revisional application being

CO 3651 of 2022 has now become infructuous and the same is, thus, dismissed.

9. However, there shall be no order as to costs.

10. The authenticated copy of Order No. 28 dated 10.07.2023 as passed in Title Suit No. 5 of 2021 and the server copy of the order dated 17.08.2023 as passed in CAN 1 of 2023 in FAT 270 of 2023 as passed by the Hon'ble Division Bench be taken on record.

11. Parties to act on the server copies of this order.

12. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

13. Before parting with the instant case record I direct the learned Commercial Court, Rajarhat, North 24 Parganas to expedite Title Suit No. 5 of 2021 so as to come to a logical conclusion in respect of determination of arrear rent and other ancillary relieves, if there be any, preferably within a period of six months from the communication of this order.

(Partha Sarathi Sen, J.)