

16  
03.7.2023  
Ct. 236  
SB

C.O. 3178 of 2014  
CAN 1 of 2015

In the matter of : Nawal Kishore Agarwal

As usual none is appearing on behalf of the petitioner.

The matter was earlier adjourned twice on 08.6.2023 and 16.6.2023.

In view of the order dated 16.6.2023, 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. 79 dated 08.08.2014 passed by the Learned Judge, 11<sup>th</sup> Bench, City Civil Court, Calcutta in Title Suit No. 2602 of 1997. By the impugned order, learned Trial Court was pleased to reject the application filed by the defendant under Order VII Rule 11 of the Code of Civil Procedure seeking rejection of plaint in a suit for eviction under Transfer of Property Act on the ground of forfeiture of lease.

It is contended that the suit was filed without serving the notice under Section 106 of Transfer of Property Act or under Section 13(6) of the West Bengal Premises Tenancy Act.

It is observed by the learned Trial Court and quite rightly that the plaintiff has sought for relief under Section 114(A) of the Transfer of Property Act with specific averment that the lease was for fifty one years.

In my view the learned Trial Court was absolutely right in dismissing the application.

The order impugned does not warrant any interference.

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