

C.O. 3212 of 2014
CAN 2 of 2016

In the matter of : Robin Chand Mullick

As usual none appears on behalf of the petitioner.

The matter is appearing almost after nine years.

The conduct of the petitioner demonstrates lack of interest to proceed with the lis.

The Hon'ble Supreme Court in the case of **Robin Thapa vs. Rohit Dora** reported in **AIR 2019 SCC 3225** held :-

"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."

In view of the aforesaid, I am inclined to dispose of the application based on merits available with the records.

This revisional application challenges the order dated 26.5.2014 passed by the learned Civil Judge, Senior Division, 2nd Court, Alipur in Title Suit No. 16 of 2014. By the order impugned, learned Trial Court was pleased to allow the prayer for amendment of plaint with cost of Rs.1,000/- and opportunity was given to the defendant to file additional written statement. From the order impugned, I find that the plaintiff wants to incorporate certain facts in the pleading touching the averment of fraud under Order VI Rule 4. The pleading in case of fraud must be elaborate. The defendant / petitioner challenged the order on the ground that this amendment would change the nature and character of

the suit which was not very inspiring contention. When the defendant shall have the opportunity to controvert the pleading of the plaintiff by way of written statement and by way of cross-examination can negate the same, I do not find any reason to interfere with the order impugned.

This revisional application does not merit any consideration and is dismissed along with application being CAN 2 of 2016, however, without any order as to costs.

Interim order of stay, if any, stands vacated.

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

(Siddhartha Roy Chowdhury, J.)