

17.7.2023
ct. 236
sk,sl. 18

C.O. 3893 of 2014

In the matter of : Al Hajah Prop P.Ltd.

None is appearing on behalf of the petitioner.

This revisional application is awaiting adjudication for last nine years.

The Hon'ble Supreme Court in Robin Thapa Vs Rohit Dora, reported in AIR 2019 S.C.C. 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”.

Hence I am inclined to dispose of application on merit, based on materials available with the record.

This revisional application challenges the Order No. 18 dated 15th July, 2014 passed by learned Judge, 5th Bench, City Civil Court at Calcutta in Title Suit No. 856 of 2011. The plaintiff of the suit is seeking declaration and permanent injunction as to the status of tenant.

It is further contended that the tenancy is not subjected to the provision of Transfer of Property Act. The defendant filed an application

under Order VII Rule 11 of the Code of Civil Procedure seeking rejection of plaint on the ground that the plaint does not disclose any cause of action and the suit is undervalued.

Learned trial court, however, refused to accept such contention and it is rightly stated that the issue raised can be decided only after trial.

The order impugned in my view does not warrant any interference.

The revisional application is dismissed however, without cost.

Let a copy of this order be sent down to the learned trial court forthwith.

(Siddhartha Roy Chowdhury, J)