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06.9.2023
Ct. 3
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Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction

C.O. 104 of 2023

In the Matter of : Sraboni Trade Link Private Limited

Mr. Rahul Kedia
Mr. Ajay Singhal ... for the petitioner

Mr. Partha Pratim Sarkar
Mr. Sumanta Ghosh
Mr. Kartik Majumder ... for the O.P. No. 4

Heard, Mr. Kedia, learned counsel appearing on behalf of the petitioner, impeaching the order impugned, who submits that the defendants despite receipt of summons preferred not to appear before the learned Trial Court to file written statement in answer to the plaint. There was a delay of 33 months from the date of appearance. It is further contended that the learned Trial Court could not have passed the order accepting the written statement filed by the defendants at such a belated stage. However, Mr. Kedia learned counsel submits that the defendants are at liberty to participate in the proceeding.

True, it is the defendants were utterly negligent but Mr. Sarkar, learned counsel representing the opposite party no. 4 submits that the defendants were sufficiently prevented with the advent of Covid-19 and in the midst of pandemic they could not prepare the written statement. However, there is no

explanation as to the inaction on the part of the defendants from the period the restriction was relaxed till 28.7.2023.

Since, this is not a commercial dispute, learned Trial Court has allowed the defendants to answer to the plaint by accepting the written statement, I am inclined to interfere with that part of the order but the defendants shall have to pay costs of Rs.50,000/- to the plaintiff within four weeks hence. If the payment is not made, learned Trial Court shall place the suit for ex parte hearing and on that very day shall dispose of the suit recording the evidence of the plaintiff.

The order impugned, is thus, modified.

The revisional application, is thus, disposed of.

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

(Siddhartha Roy Chowdhury, J.)