

Item No. 73

Ct 22

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10.12. 2024

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE

C.O. 90 of 2022

**Sri Ashoke Ghosh
Vs
Achintya Kumar Ghosh**

Mr. Partha Pratim Roy,
Mr. Anirban Das,
Mr. Samrat Chakrabroty.

.... for the petitioner.

Mr. Sanjib Seth.

... for the opposite party.

1. The instant revisional application has been filed assailing the order dated 17.09.2021 as well as 07.10.2021 passed in connection with Title Suit No. 83 of 2017, wherein learned Judge allowed an application under Section 151 of the Code of Civil Procedure by the order dated 17.09.2021 in spite of observation contrary to the prayer was made in the body of the order. On that score, only the order is not sustainable in law. Learned Judge further recalled the order dated 17.09.2021 by his order dated 07.10.2021. By the order dated 07.10.2021 he modified the order, which would not at all sustainable in law. On that score, the order dated 07.10.2021 is also liable to be set aside.
2. Heard both the learned counsel appearing on

behalf of the parties to this revisional application. The dispute between the parties is with regard to repair of the suit shop room and for that purpose one Commission work was held on 16th August, 2018. Report was submitted only mentioning damp as well three round shape holes in the eastern side of the wall of the suit shop room. Though petition for repairing under Section 151 of the Code of Civil Procedure filed with a prayer for repairing entire premises and for installation of iron gate.

3. On careful perusal of the Commissioner's report, I find only eastern wall of the suit shop room is required to be repaired and accordingly defendant/petitioner herein is at liberty to repair only damp portion and three round shape holes of eastern side wall of the suit shop room within three weeks from the date in presence of landlord/opposite party herein or any of his representatives with prior information to the landlord/opposite party herein.
4. With the aforesaid observation, the revisional application stands disposed of.
5. Interim order, if any, stands vacated.
6. Learned Trial Judge is requested to dispose of the Suit as expeditiously as possible.
7. Urgent photostat certified copy of the order, if

applied for, be given to the parties on usual undertakings.

8. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Bibhas Ranjan De, J.)