

*In The High Court At Calcutta
Civil Revisional Jurisdiction
(Appellate Side)*

C.O. 182 of 2023

**Satya Prakash Jaisal alias Shaw
Vs.
Arvind Kumar Harbhajanka & Anr.**

Mr. Sourav Sen,
Mr. Partha Chakraborty,
Mr. Muhammad Obaid ... For the petitioner.

Mr. Ashok Sharma For the opposite parties.

The defendant in a suit for eviction is the petitioner of the instant application under Article 227 of the Constitution of India, which is directed against the Order No. 22 dated February 18, 2022 and Order No. 27, dated July 12, 2022 passed by the 4th Court of learned Civil Judge, (Junior Division) at Howrah, in the said suit being *Title Suit No. 1093 of 2018*.

The learned Trial Judge by the Order No. 22, dated February 18, 2022 had allowed an application filed by the plaintiffs, the opposite parties herein under Order XI Rules 14 and 15 of the Code of Civil Procedure, thereby directing the defendant to produce documents which he is relying on in his defence and for his failure to comply with the said direction, by the Order No. 27 dated July 12, 2022 has struck off the defence of the defendant.

Neither the defendant in his written statement has referred to any document(s) to be relied on in his defence, nor the plaintiffs, in their application under Order XI Rules 14 and 15 of the code has mentioned any document(s) which they intend to inspect; besides, no notice as required under Order XI Rule 16 thereof was issued by the plaintiffs.

Be that as it may, during the pendency of the instant revisional application, Mr. Sen, learned advocate for the petitioner has

supplied copy of the documents which his client is relying on in support of his defence in the suit to Mr. Sharma, learned advocate for the opposite parties.

Mr. Sharma submits that the defendants may be directed to produce the ***original*** of the said documents before the learned Trial judge, enabling the plaintiffs to have inspection.

In any event, the defendant is required to prove the said documents and to facilitate the said drill, the orders impugned are set aside.

The learned Trial Judge shall fix a date for further cross-examination of the plaintiffs' witness; the defendant is obliged to conclude such cross-examination on the said date itself; in default, the evidence of said witness shall stand closed.

The defendant alone shall be entitled to adduce evidence. The learned Trial Judge shall fix a date enabling the defendant to tender his evidence-in-chief and to prove the documents in support of his defence, but such examination-in-chief must be concluded on the date fixed and the defendant shall make himself available if the plaintiffs intend to cross-examine him on the said date itself; in default, the evidence of the defendant shall be expunged.

C.O. 182 of 2023 is disposed of with the above terms without any order as to costs.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)