

M/L 65  
18.11.2024  
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Ct 5

IN THE HIGH COURT AT CALCUTTA  
CIVIL REVISIONAL JURISDICTION

**CO 814 of 2024**

Swapan Biswas & Ors.  
Versus  
Susanta Biswas & Anr.

Mr. Kartick Kumar Bhattacharya  
Mr. Subhas Chandra Datta  
Ms. Soumashree Dutta  
Ms. Papiya Naskar

... For the petitioners/defendants.

1. Challenging the order No.70 dated 15<sup>th</sup> July, 2023, passed by the Civil Judge (Senior Division), Tehatta, Nadia, in Misc. Case No.15 of 2017 arising out of Title Suit No. 17 of 2016, the instant revisional application has been filed.
2. The impugned order originates from a partition suit. It appears that originally an interim order of *status quo* was passed in the suit. Complaining violation of such interim order, Misc. Violation Case No.15 of 2017 was filed by the plaintiffs under the provisions of Order XXXIX Rule 2A read with Section 151 of the Code of Civil Procedure on 17<sup>th</sup> July, 2017. After passing of such order, the petitioners/defendants entered appearance on 16<sup>th</sup> September, 2017 and had prayed for time to file written objection thereto. The order also reveals that from time to time several opportunities were granted to the petitioners/defendants to file written objection. However, since no such written objection was filed,

the learned Court passed an order for *ex parte* hearing on 19<sup>th</sup> July, 2018 against the petitioners/defendants. About four years therefrom on 15<sup>th</sup> June, 2022 a written objection was filed. Still later, an application for vacating the order for *ex parte* hearing was filed on 18<sup>th</sup> March, 2023. The learned Court upon scrutiny of the records detected that while the petitioners filed the written objection no prayer for acceptance of such written objection was made. Admittedly, such written objection was purportedly filed approximately more than four years from the date when the opposite parties had entered appearance. It is in the facts of this case, the learned Court refused to accept the written objection filed by the petitioners/defendants, on record and the application filed for vacating of the order for *ex parte* hearing was dismissed and the matter has been fixed for *ex parte* hearing.

3. Although, Mr. Bhattacharya learned advocate representing the petitioners would complain that once the written objection was filed, the learned Judge was obliged to take note of the same, I am, however, unable to accept such contention in the given facts.
4. Records reveal that at the first instance the plaintiffs were compelled to file application under Order XXXIX Rule 2A of the Civil Procedure Code,

complaining disobedience of the order of *status quo* it was only thereafter, that the opposite parties had caused appearance. Notwithstanding taking time they did not file the written objection as such the matter was posted for *ex parte* by order dated 19<sup>th</sup> July, 2018. Nearly two years thereafter the written objection was filed. When the petitioners filed the written objection no prayer was made for condoning the delay in filing the same and for delayed acceptance thereof. Still later a petition for vacating the order for *ex parte* hearing was filed on 18<sup>th</sup> March, 2023. A party cannot be permitted to take the Court for granted. The conduct of the petitioners, in my view, disentitled them to any relief. As such I do not find any irregularity in the order.

5. Having regard to the aforesaid, no case for interference in the revisional application has been made out. The revisional application, being CO 814 of 2024 stands dismissed.

6. There shall be no order as to costs.

Urgent Photostat certified copy of this order, if applied for, be made available to the parties upon compliance of requisite formalities.

**(Raja Basu Chowdhury, J.)**