

*In The High Court At Calcutta
Civil Revisional Jurisdiction*

C.O. 2244 of 2024

Md. Imran

Vs.

Md. Parwez Khan & Anr.

Mr. Arup Krishna Das ...For the petitioner.

Md. Nauroz Rahber,
Md. Adnan Ahmed,
Mr. Muhammad Jourwad ... For the O.P. No. 1.

The petitioner is the defendant no. 2 in *Title Suit No. 659 of 2021*, a suit for declaration of title upon cancellation of Deed of sale in favour of the defendant no.2 by the defendant no. 1.

The said suit is pending before the Additional Court of learned Civil Judge (Junior Division) at Asansol, District: Paschim Bardhaman.

The learned Trial Judge by the impugned Order No. 22 dated May 17, 2024 has refused to vacate the order fixing the suit for *ex parte* hearing against the petitioner on the ground that the petitioner since has lodged caveat, is not entitled to take the plea of non-service of summons.

The caveat was lodged in anticipation of an application to be filed in the suit which cannot substitute the requirement of service of summons.

The order impugned is therefore, set aside.

C.O. 2244 of 2024 is disposed of with the above observations without any order as to costs.

The learned Trial Judge is requested to expedite the disposal of the suit in accordance with law without entertaining the prayer of the parties for any unnecessary adjournment.

Parties to act on the server copy of this order duly downloaded from the official *website* of this Court.

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.)