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02.07.2024

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

C.O. No. 2310 of 2024

**Sri Ashok Bhuinya @ Bhuniya
Vs.
The State of West Bengal**

Mr. Agniswar Bhuinya ... For the petitioner.

The instant application under Article 227 of the Constitution of India is at the instance of the plaintiff in a Money suit and is directed against Order No. 37 dated May 02, 2024 passed by the learned Judge, Commercial Court at Alipore, District- 24 parganas (South) in the said suit being Money Suit (Commercial) No. 33 of 2021.

The suit was running ex-parte against the defendant/State.

The learned Trial Judge by the order impugned has allowed the prayer of the defendant to remove the said suit from the ex-parte Board holding inter alia that after institution of the suit, considerable period of time has elapsed for the intervention of Covid – 19 pandemic and during the said period, Government Offices were not functioning.

The allegation of non-service of summons though has not been proved very clearly but the learned Trial Judge, considering the impact of the outbreak of the

Covid-19 pandemic in the society at large, has exercised discretion to remove the suit from the ex parte Board.

This Court is not inclined to interfere with the exercise of such discretion as it has not been demonstrated that said exercise is arbitrary and/or capricious, the order impugned, therefore does not call for any interference.

However, the suit is pending since 2021, the learned Trial Judge is requested to expedite the disposal of it and in doing so, shall not entertain the prayer of the parties for any unnecessary adjournment.

C.O. 2310 of 2024 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.)