

27.06.2024
Item No.2
gd/ssd

CO 3079 OF 2023
MOHAN KUMAR SHAW
VS
ARATI SAHA AND ORS.

Mr. Sarvesh Chandra Shrivastava,
Mr. Somnath Chattopadhyay,
Mr. Samir Kumar Das
..for the Petitioner.

Mr. Jit Ray,
Mr. Jaydeep Dhar
..for the Opposite Parties.

The defendant has filed this application under Article 227 of the Constitution of India challenging the Order No.76 dated 12th May, 2023 passed by the Learned Judge, 4th Bench, Presidency Small Causes Court at Calcutta in Ejectment Suit No.418 of 2010.

By the said order the evidence of the defendant's witness was closed and a date was fixed for arguments.

Pursuant to the order passed by this court, the petitioner has served copy of this application upon the opposite parties and the opposite parties are represented by their learned Advocate.

The learned Advocate appearing for the opposite parties submits that the learned Trial Judge after considering the submissions of the plaintiff and in view of the strong objection raised by the plaintiff rejected the prayer for adjournment.

It appears from the record that the adjournment was sought for on medical grounds.

It is not in dispute that the documents in support of illness were also produced before the learned court below.

The learned Trial Judge while rejecting the prayer for adjournment did not assign any reasons for such rejection.

After considering the grounds stated in the petition for adjournment and the documents filed in support thereof, this court is of the considered view that the learned Trial Judge ought to have allowed the prayer for adjournment.

For such reason, this court is inclined to interfere the order passed by the learned Trial Judge. The order impugned is set aside.

It has been uniformly submitted by the learned Advocates for the parties that today is the date fixed before the learned Trial Court, but in view of the order of stay passed by this court, the matter could not be heard today.

The learned Trial Judge is directed to fix a date for evidence of the defendant's witness forthwith and take steps to dispose of the Ejectment Suit No.418 of 2010 as expeditiously as possible and preferably by the end of December, 2024 without granting any adjournments to either of the parties.

With the aforesaid direction, CO 3079 of 2023 stands disposed of.

There will be no order as to costs.

Urgent certified copy of this order, if applied for, be given to the learned advocates for the parties on usual formalities.

(HIRANMAY BHATTACHARYYA, J.)