

30.01.2024
Court No. 19
Item no.05
CP

C.O. No. 3772 of 2023

Suvendu Adhikari

Vs.

Pulok Roy

Mr. Billwadal Bhattacharyya
Mr. Anish Kumar Mukherjee
Mr. Suryaneel Das
Mr. Chiranjit Pal

.....for the petitioner.

Mr. Saunak Bhattacharya

.....for the opposite party.

By the order impugned dated September 14, 2023, the learned Civil Judge (Senior Division), Uluberia, Howrah in Title Suit No. 5 of 2023 fixed the suit for ex parte hearing. The defendant entered through his learned advocate and filed a petition, praying for time to file the written statement. Such prayer was made on the ground that the plaint had not been served.

The learned court erred in holding that although the plaint was not served, the court was bound by the statutory period within which a written statement could be filed and accepted by the court. Thus, the suit was fixed for ex parte hearing.

The learned court proceeded on a misconception of law and erred in fixing the suit for

ex parte hearing, upon noticing that the plaint had not been served in compliance of the order of the court.

The order impugned is set aside. The suit is removed from the ex parte board.

As the copy of the plaint has been handed over to the petitioner's learned Advocate in court today, the petitioner is granted four weeks time from date to file the written statement.

The learned court shall accept the written statement if it is found that the same is filed within the time frame fixed by this court. The suit shall then proceed strictly in accordance with law.

The revisional application is accordingly disposed of.

There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)