

27.03.2024
Ct. No. 19
Sl. No.101
Cp

C.O. No. 4465 of 2023

Tata Capital Housing Finance Limited
Vs.
Moumita Das

Mr. Akash Dutta
Mr. Zafar Sultan

.....for the petitioner.

As there is no caveat, the matter can be taken up for initial hearing.

The revisional application arises out of an order Dated September 23, 2022, passed by the learned Civil Judge (Junior Division), 1st Court, Barrackpore in Title Suit No. 307 of 2022.

The revisional application is not maintainable as the order impugned is an appealable order. The petitioner has challenged an order of injunction passed by the learned Trial Judge on the ground that the same is without jurisdiction. The order is an appealable order. According to the petitioner, the learned Civil Judge did not have any jurisdiction to decide the suit, during the pendency of the SARFAESI proceedings. The relief in the suit filed by a tenant of the mortgaged property was grossly irregular. The loan account of the borrower was declared NPA.

The petitioner is at liberty to proceed in accordance with law upon taking back the certified copy of the order impugned, by furnishing a photocopy thereof.

The Civil Procedure Code lays down the procedure of challenge to an order of injunction. This court is bound by such procedure and is not inclined to entertain the revisional application. The grounds raised can easily be raised in the appeal. Article 227 is not a substitute for the provision of appeal provided in the Code.

The revisional application is accordingly dismissed. There shall be no order as to costs.

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

(Shampa Sarkar, J.)