

April 30, 2024
AP (7)

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Civil Revisional Jurisdiction**

**C.O. 30 of 2024
CAN 1 of 2024
CAN 2 of 2024**
(Application not in file)

Bhawani Shankar Mitruka & anr.
Vs.
Siddhartha Sarkar & ors.

Adv. Sandip Mandal,
Adv. Abhilash Mittal,
...for the petitioners.
Adv. Bikramaditya Ghosh,
Adv. Supriya Singh,
...for the Respondent No. 5.

Affidavit of service filed on behalf of the
petitioners is taken on record.

None appears for the opposite party nos. 1, 2, 3
& 4 despite service.

Heard learned counsels for the represented
parties. The petitioners have assailed the order passed
by the learned Civil Judge Junior Division, Jalpaiguri
on 16th October, 2023 in Title Suit no. 573 of 2022
allowing the application filed by the plaintiff/opposite
party under Order VI Rule 17 of the Code of Civil
Procedure.

Learned counsel for the petitioners submits that
the order was passed without granting an opportunity
to the petitioners to file written objection to the same.
According to the petitioners, the application under
Order VI Rule 17 does not deserve to be allowed.

Learned counsel for the 5th respondent concedes to the submission made on behalf of the petitioners.

Upon consideration of the submission made on behalf of the parties, this Court is inclined to hold that since the petitioners intend to submit a written objection to the application under Order VI Rule 17 of the Code before the learned Trial Judge and participate in the hearing of the application, such opportunity be granted to the petitioners.

Accordingly the application being C.O. no. 30 of 2024 is allowed.

The order impugned passed on 16th October, 2023 in Title Suit no. 573 of 2022 by the learned Civil Judge Junior Division, Jalpaiguri is set aside.

The petitioners are granted liberty to file written objection to the application under Order VI Rule 17 of the Code before the learned trial Court within one week from date.

The learned trial Court shall deal with the application under Order VI Rule 17 afresh upon consideration of the written objection submitted by the petitioners as well as submission made by both the parties before the Court and dispose of the application in accordance with law.

Urgent certified website copy of this order, if applied for, be furnished to the parties upon compliance of all necessary formalities.

(Suvra Ghosh, J.)