

**Item 14.01.
No. 2025
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**Ct
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IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE

CO 533 of 2022

**Smt. Suma Shaw & Ors.
Vs
Mr. Niranjana Biswas**

Mr. Souparno Pyne.

... for the petitioners.

Mr. Bijoy Adhikary,

Ms. Susmita Adhikary

... for the opposite party.

1. The instant revisional application has been preferred assailing the Order No. 37 dated 24.01.2022 passed in connection with Ejectment Suit No. 280 of 2017, whereby Learned Judge, 5th Bench, Presidency Small Causes Court, Calcutta was pleased to refuse the prayer under Order 12 Rule 6 read with Section 151 of the Code of Civil Procedure i.e. from passing judgment on “admission”.
2. Learned counsel appearing on behalf of the petitioners has drawn my attention to the paragraph 7 of the written statement in which the following has been delineated:

“7. That with regard to the statement as made in paragraph 6 and 7 of pliant, this defendant denies the same. Specifically denies that the plaintiffs have any option as to the

erection of any multi-stories building upon demolition of the old structure and such desire was never canvassed to the defendant or to any authority where both the plaintiffs and the defendant moved for the settlement of the dispute touching the occupation of the defendant. It is needless to mention that both the plaintiffs and the defendant moved the Officer-in-Charge of Amherst Police Station on several occasion but the proposal as indicated in paragraph 5 and 6 was not disclosed. Had it been disclosed to the defendant and had any consent was sought for, the defendant certainly considered the matter and there was a chance for widening the path for amicable settlement but none of the usual way for amicable settlement was adopted but on the contrary constant so called "Gunda gardi" was made and reign of terror prevailed which prevented everything good as it was required by the combathing parties the defendant states that since the plaintiffs intends to erect a multi-storied building in terms of their desire to which this defendant has got no objection since the plaintiff has already offered an alternative accommodation either in the building or else where during construction period and upon completion of the construction work the restoration of possession to the defendant as indicated under the West Bengal Premises Tenancy Act, 1997. The defendant is willing to extend all co-operation as to the proposed construction as the plaintiffs have suggested and thereby allowing all the pending suits go by for an amicable settlement but this defendant since desire proper respect as a tenant, he is inviting a dynified approach and expecting an amicable settlement will full of amity upon tendering proper respect."

3. In opposition to that, learned counsel appearing on behalf of the opposite party has submitted that observation of the learned Trial Court was absolutely right on the issue of prayer for judgment on "admission". It is submitted that learned Judge recorded that the eviction suit was filed for building and rebuilding but so far as the alternative

accommodation is concerned, plaintiff could not produce even a scrap of paper regarding the same.

4. It is sine qua non for a judgment on admission that the “admission” is clear, unambiguous and unconditional.
5. On careful perusal of the paragraph 7 of the written statement, I find that defendant was willing to co-operate with regard to the proposed construction of multi-storied building, since the plaintiff has already offered an alternative accommodation either in the building or else where during construction period and upon completion of the construction work defendant shall be restored to the earlier possession of the suit building.
6. By no stretch of imagination, I can come to the conclusion that the “admission” delineated in the written statement is unconditional or unambiguous which therefore does not, in my opinion, attract “admission” within the meaning of provision of Order 12 Rule 6 of the Code of Civil Procedure.
7. In the aforesaid view of the matter, I find hardly any scope to exercise jurisdiction under Article 227 of the Constitution of India as I do not find any infirmity in the order impugned in this revisional application.
8. With this aforesaid observation, the revisional application stands dismissed.

9. Interim order, if any, stands vacated.
10. Connected applications, if any, stand disposed of accordingly.
11. Learned Trial Court is requested to proceed with suit in accordance with law.
12. Urgent photostat certified copy of the order, if applied for, be given to the parties on usual undertakings.
13. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Bibhas Ranjan De, J.)