

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE

CO 764 of 2023

Smt. Dipali Chakraborty & Ors.

Vs.

Smt. Hina Roy @ Hina Ray

Mr. Amitabha Ghosh

Ms. Nabanita Chatterjee

Ms. Arpita Dhar

... For the petitioners

Mr. Debasish Mallick Chowdhury

Ms. Munmun Mondal

... For the opposite party

1. This revisional application has been preferred assailing the Order No.31 dated 6th January, 2023 passed in connection with Title Suit No.468 of 2017 wherein the learned Civil Judge (Senior Division), 3rd Court, Barasat, North 24-Parganas dismissed the suit for default with costs.

2. Mr. Amitabha Ghosh, learned counsel appearing on behalf of the petitioners has submitted that the plaintiff Chanchal Chakraborty, the only male member of the family, had undergone one surgical operation on in the month of December, 2022 and doctor advised him on 20th December, 2022 not to do any strenuous work for one month. It is further contended that one adjournment application was filed along with the doctor's prescription before the learned Trial Court with a prayer for

adjournment but that prayer was refused by the learned Trial Judge ignoring the advice of the doctor.

3. In opposition, Ms. Munmun Mondal, learned counsel appearing on behalf of the opposite party has submitted that the order impugned in this revisional application clearly shows that the petitioners/plaintiffs took several adjournments earlier and that was the reason to refuse the prayer for adjournment sought for on behalf of the plaintiffs.

4. From the medical papers annexed with the revisional application, I find that one of the plaintiffs, Chanchal Chakraborty, had undergone one Hernia operation on 5th December, 2022 and doctor advised him on 20th December, 2022 not to do any strenuous work for one month i.e., till 20th January, 2023.

5. In my humble opinion, the learned Trial Judge ought to have considered such prayer at least till 20th January, 2023 pursuant to the advice by the doctor.

6. In the aforesaid view of the matter, I set aside the order impugned in this revisional application.

7. The Title Suit No.468 of 2017 be restored to its original number and file, subject to payment of cost already imposed upon the plaintiffs by the learned Trial Judge.

8. As the suit is pending since 2017, the learned Trial Judge is requested to dispose of the suit as expeditiously as possible, without affording any unnecessary adjournment to either of the parties.

9. With the aforesaid observation, the revisional application stands disposed of.

10. All parties shall act on the basis of a server copy of this order duly downloaded from the official website of this Court.

11. Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of necessary formalities.

(Bibhas Ranjan De, J.)