

24. 07.05.2025
Court No.6
(Tanmoy)

CO/1587/2025

CONTAI CO OPERATIVE BANK LTD.
VS
BAISHALI PANDA

Mr. Tanmoy Mukherjee
Mr. Ritwik Pattanayak
Mr. Souvik Das
Mr. Rudranil Das
Mr. Soumava Santra

...for the petitioner.

Mr. Partha Pratim Roy
Mr. Sukumar Sarkar

...for the opposite party.

1. Affidavit of service filed in Court today is taken on record.

2. Heard Mr. Mukherjee, learned Advocate appearing for the petitioner and Mr. Roy, learned Advocate appearing for the opposite party.

3. This application under Article 227 of the Constitution of India is at the instance of the defendant/petitioner and is directed against an order dated April 4, 2025, passed by the learned Judge, Bench-V, City Civil Court, Calcutta, in Title Suit No. 1398 of 2024. By the order impugned the application under Order VII, Rule 11(d) of the Civil Procedure Code, 1908, stood rejected.

4. The opposite party filed a suit for declaration that although the opposite party is not the lawful and *bona fide* owner in respect of a commercial

vehicle but is entitled to ply the commercial vehicle peacefully without any interference and disturbance in any way whatsoever by the defendant/petitioner herein and for a declaration that the opposite party is entitled to get back all the documents including the blank cheques which has been taken by the defendant/petitioner and the same to be declared as void and not binding upon the plaintiffs/opposite party.

5. In such a suit, the petitioner herein has filed an application under Order VII, Rule 11(d) of the Civil Procedure Code, 1908 specifically raising an objection as to the maintainability of the suit in view of the bar under Section 102 sub-section (4) of the West Bengal Co-operative Societies Act, 2006 (hereinafter referred to as the 'said Act').

6. After going through the order impugned this Court finds that the learned Trial Judge only summarized the plaint case and thereafter quoted the provisions of Section 102 of the said Act and in one paragraph he has specified that on perusal of the averments in the plaint he was of the view that the dispute raised by the plaintiff does not fall within the class or classes of disputes described in Clause – (a), (b), (c) and (d) of Section 102(1) of the said Act.

7. After going through the order impugned, this Court finds that the same is a non-speaking order

and only for such reason the same is liable to be set aside. Accordingly, the order impugned is set aside only for such reason. The application under Order VII, Rule 11, CPC is restored to the file and number with the learned Judge Bench-V, City Civil Court, Calcutta.

8. The learned Judge is requested to decide the said application afresh after giving an opportunity of hearing to the respective parties and by passing a reasoned order.

9. It is, however, made clear that this Court has not entered into the merits of the claims and counter-claims of the respective parties and the learned Trial Judge shall be free to decide the same without being influenced by any observations made in this order. The learned Trial Judge is requested to dispose of such application as expeditiously as possible but preferably within a period of four weeks from the next date fixed in the said suit without granting any unnecessary adjournment to either of the parties.

10. With the above observations, the civil revisional application being CO/1587/2025 is disposed of.

(HIRANMAY BHATTACHARYYA, J.)