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**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
CIVIL REVISIONAL JURIDICITION
APPELLATE SIDE**

C.O. 28 of 2025

**Norbu Tshering & Ors.
-VS-
Cambridge Educational & Ors.**

Mr. Sandip Mandal
Mr. Abhilash Mittal
Mr. Amit Saha

... for the petitioners

The present civil revision case is by the petitioners to challenge the learned Civil Judge Senior Division at Kurseong dated December 20, 2024 in Title (Eviction) Suit No. 01 of 2024.

By dint of the said order the Court has declined to entertain the prayer of the present petitioners/plaintiffs under Order 5 Rule 20 of the Civil Procedure Code for substituted service.

Mr. Mandal, learned advocate for the petitioners would submit that the order impugned dated December 20, 2024 is result of non-application of mind by the learned trial court and also non-observance of the statutory provision. He would refer to the documents annexed with the present application to submit that previously the Court has directed on March 5, 2024 for issuance of summons

upon the defendants and requisites were submitted in terms of the Court's order as above. He has also referred to the subsequent order of the Court to show that the process server report have been taken into consideration by the Court that "the defendant is not found at the address provided and therefore issuance address".

Learned advocate appearing for the petitioner would also refer to the suit filed by the present opposite party before the learned Civil Judge Senior Division at Kurseong being O.C. Suit No. 4 of 2019 and submit that the address provided by the present opposite party as the plaintiff in the said suit, is the right address of the plaintiff and the summons have been served upon the present opposite party in the said address. He would further show that the letter demanding justice as sent by the present petitioner to the opposite party was sent and received duly address to which the summons have been directed to be served.

On these facts and circumstances the petitioners would submit that the address as provided by the petitioners for service of summons upon the present opposite party would not be an erroneous one and any findings as to the same would be due to non-application of mind by the Court. Instead it is

submitted that since one receipt letter demanding justice at the same address the summons of the case may also be received by the defendant at the same address who is intentionally avoiding receipt of summons by mischief.

Learned advocate for the petitioners would further say that the learned trial court has not taken into consideration of the relevant documents and the facts as narrated above and therefore has come to an erroneous finding in the impugned order dated December 20, 2024 thereby rejecting petitioners' prayer under Order 5 Rule 20 of the Civil Procedure Code.

The Court finds the submissions of the petitioners would be substantive on the basis of the documents available on record.

The service of demand justice notice was completed by receipt of the notice by the present opposite party at the address to which summons of this case have been earlier sent to him.

It is further noticed that in a suit filed by the present opposite party before the competent court, the said opposite party has mentioned his address to be the one to which the service of summons of the present suit could not have been duly effected.

However, in the impugned order dated December 20, 2024, the learned trial court is found not to have taken into consideration these relevant facts as regards service of summons and the proper address of the present opposite party. Hence, the consideration of the learned Civil Judge Senior Division, Kurseong as regards the prayer of the petitioners under Order 5 Rule 20 of the Civil Procedure Code appears to be based on erroneous factors and due to non-application of judicious mind as to the facts and circumstances of the case.

Therefore, the above prompts this Court to set aside the impugned order dated December 20, 2024 of the Court passed in Title (Eviction) Suit No. 01 of 2024.

Let this revision be disposed of by directing the Civil Judge Senior Division at Kurseong to consider the petitioners' application under Order 5 Rule 20 of the C. P.C. afresh and pass an order after due consideration of all the facts and circumstances as mentioned above.

In doing so, the parties shall be granted an opportunity afresh to present their respective contentions before the Court and rely on the documents as thought fit and proper.

With the directions as above, the present revision
case No. C.O.28 of 2025 is disposed of.

(Rai Chattopadhyay, J.)