

02.02.2026
Item No.118
BR

CO 417 of 2024
Abu Taher Sk. and Ors.
-vs-
Mokshed Ali Gharami & Ors.

Mr. Pankaj Halder,
 Mr. Tapas Manna,
 Mr. N. Bera

... for the petitioner
 Mr. Saptarshi Kumar Kundu,
 Mr. Raju Das
 ... for the O.P.

1. The revisional application has been preferred challenging orders dated 19.04.2022 and 22.11.2023 passed by the learned 1st Additional, Civil Judge (Jr. Division) at Diamond Harbour in T.S. No. 11 of 2015.
2. Vide the impugned order dated 19.4.2022, the learned trial Court considering the show cause filed by the defendant no.1, Ka/petitioner rejected the same on recording that the petitioner was not found on repeated calls and admittedly without any hearing regarding investigation Commissioner's report.
3. Vide an order dated 18.7.2022 the trial Court accepted the

hazira of defendant no.,
Ka/petitioner and accepted the
show cause filed by the petitioner
on payment of costs to DLSA,
Diamond Harbour and fixed the
case for framing of issues.

4. It is submitted that though the
order of ex parte hearing was
vacated the order accepting the
learned investigation
Commissioner's report without
hearing was not vacated.
5. It is submitted that the said report
was accepted without hearing the
parties and without considering
the same as there is no
observation made by the trial
Court in its order dated
19.4.2022 as to the reason of
acceptance of the said
investigation report.
6. Vide the impugned order dated
22.11.2023 the trial Court rejected
the prayer of the
defendant/petitioner regarding
setting aside of the acceptance of
the investigation Commissioner's
report on the ground that the
prayer was made belatedly
7. On hearing the learned counsels
appearing for the parties and on

perusal of the materials on record, it is required in the interest of justice that parties herein should get an opportunity of hearing in respect of the acceptance of the report of investigation commissioner.

8. Accordingly, the impugned order dated 22.11.2023 is hereby set aside and the trial Court is directed to hear the matter regarding acceptance of the investigation Commissioner's report and on hearing both sides in accordance with law, shall make all endeavour to dispose of the same within 60 days from the date of communication of this order considering that the title suit relates to the year 2008.
9. The trial Court shall proceed to dispose of the suit expeditiously preferably within one year from the date of this order.
10. It is made clear, that in this case both parties fails to appear for hearing, the trial Court shall proceed to pass an order in accordance with law.
11. CO 417 of 2024 stands disposed of.

12. Urgent Photostat certified copy of this order, if applied for, be given to the learned counsel for the parties on usual undertakings.

(Shampa Dutt (Paul), J.)