

24.03.2026
Ct. No. 30
S.L. No. 23
SM

CO 3816 of 2023
With
IA No.: CAN 1 of 2026
Santu Kumar Dey
Versus
Subrata Nayak & Anr.

Mr. Amitava Mukherjee, sr. adv.
Ms. Munmun Dubey
Ms. Arpita Saha
Ms. Ankita Ghosh
.....for the petitioner

1. Affidavit-of-service filed be kept with the record.
2. The revisional application has been preferred challenging an order dated 14.09.2023 passed by the learned Civil Judge (Junior Division), 1st Court, Sealdah in Title Suit No. 250 of 2022.
3. Vide the impugned order the trial Court has been pleased to reject the defendant/petitioner's application under Order 7 Rule 11 CPC.
4. Learned counsel for the petitioner submits that in spite of referring to the judgment reported in 2016 (2) ICC 955 (Cal), the trial Court has not considered the said judgment. This Court finds that there is absolutely no discussion on the said judgment passed by the High Court in ***Suchitra Ruia Versus Vikash Fabrics Pvt. Ltd. & Ors. passed in CO 3582 of 2010*** decided on 20.04.2016.

5. Vide the said order, the High Court in paragraph 16 of the said order has categorically noted the circumstances under which such an application can be considered. The said judgment relied upon by the petitioner is similar to the issue raised by the defendant/petitioner herein in his application under Order 7 Rule 11 CPC.

6. It thus appears that the impugned order passed is not in accordance with law having not taken into consideration the judgment in Suchitra Ruia (supra); relied upon by the defendant/petitioner herein.

7. Accordingly, the impugned order dated 14.09.2023 passed by the learned Civil Judge (Junior Division), 1st Court, Sealdah in Title Suit No. 250 of 2022 is hereby set aside.

8. The Trial Court is directed to hear the application under Order 7 Rule 11 CPC afresh, relying upon the judgment in Suchitra Ruia (supra) (paragraph 16).

9. The application under Order 7 Rule 11 CPC be disposed of in accordance with law, as per the observation in this order within two months from the date of this order.

10. CO 3816 of 2023 stands disposed of.

11. Applications, if any, connected thereto stand disposed of consequently.

- 12.** Interim order, if any, stands vacated.
- 13.** Photostat certified copy of this order, if applied for, be given to the parties on priority basis upon compliance of all formalities.

[Shampa Dutt (Paul). J]