

(2008) 03 CAL CK 0008

Calcutta High Court

Case No: C.O. No. 3500 of 2007

Smt. Shanti Prova Roy
Choudhury and Others

APPELLANT

Vs

M/s. Sascon Complex

RESPONDENT

Date of Decision: March 12, 2008

Hon'ble Judges: Subhro Kamal Mukherjee, J

Bench: Single Bench

Advocate: Partha Sarathi Bhattacharyya, for the Appellant;

Final Decision: Allowed

Judgement

Subhro Kamal Mukherjee, J.

Mr. Amitava Ghosh, learned advocate, appears for the plaintiff/opposite party and undertakes to file his vakalatnama by Friday next.

2. In view of such undertaking, this revisional application becomes ready as regards service and, by consent of the parties, the revisional application is taken up for final hearing.

3. By the order impugned in this revisional application, the learned trial Judge declined to accept the written statement filed by the defendants on the ground that two written statements by a same party could not be considered.

4. This is a suit for declaration and permanent injunction. In the suit, a written statement was filed by these defendants/petitioners, but the same was filed out of time. The said written statement was not accepted.

5. Ultimately, the matter came up before this Court in revision. The said revisional application was registered as C. O. NO. 2391 of 2005. By judgment and order dated March 8, 2007. Prabuddha Sankar Banerjee, J. disposed of the said revisional application with the following directions:

"The defendants are directed to file the written statement within one month from the date of this order before the Court below and Court shall dispose of the case preferably within one year without allowing any unnecessary adjustment."

6. Pursuant to the liberty granted by this Court, the defendants filed the written statement afresh but, the learned trial Judge, as I have indicated hereinabove, declined to accept the written statement and proceeded on the basis that there could not be two written statements by same party.

7. It is not a case of two written statements by one defendant. Earlier, the written statement filed by the defendants was not accepted. Therefore, the said written statement was not in existence any more. The learned trial Judge ought to have proceeded with the subsequent written statement, on the basis of which the defendants want to contest the claim of the plaintiff.

8. I, therefore, set aside the order impugned in this revisional application. The learned trial Judge is directed to accept the written statement filed by the defendants pursuant to the liberty granted by this Court on March 8, 2007.

9. The learned trial Judge is, also, directed to dispose of the suit as expeditiously as possible, preferably within one year from the date of communication of this order to him, without allowing any unnecessary adjournment to either of the parties.

10. With the aforesaid observations, the revisional application is allowed.

11. There will be no order as to costs.

Xerox certified copy of this order, if applied for, will be made available to the applicant within a week from the date of putting in the request.