

SUPREME COURT OF INDIA

Madhusri Konar & Anr.

Vs.

The New Central Book Agency Pvt. Ltd. & Ors.

C.A.No.9221 of 2016

(Kurian Joseph and R.F.Nariman,JJ.,)

16.09.2016

JUDGMENT

Kurian Joseph,J.,

SLP(Civil)No.27351 of 2016

1. Leave granted.

2. The appellants are before this Court aggrieved by the order dated 17.05.2016 passed by the High Court of Calcutta declining to issue a direction to the Trial Court to dispose of an application under Order VII, Rule 11 of CPC.

3. The High Court has taken note of the fact that a similar attempt made by the appellants before this Court had already been declined. Therefore, at this stage, despite the persuasive submissions on the part of the learned counsel based on the decision of this Court in *R.K.Roja Vs. U.S. Rayudu*¹ that application filed under Order VII, Rule 11, CPC has to be disposed of before the trial court, we are not inclined to interfere in the peculiar facts of this case. Be that as it may, it is seen from the issues, which have been framed by the High Court, that the maintainability as well as the cause of action are separate issues on which the trial court has to proceed. Now that all the objections raised by the appellants in the application filed under Order VII, Rule 11, CPC are covered by the issues already framed, it is not necessary to frame any additional issue. The application under Order VII, Rule 11, CPC will stand rejected.

4 Therefore, this appeal is dismissed however, with a direction to the trial court to try and dispose of Civil Suit i.e. T.S.No.1615 of 2013 on the file of the City Civil Court, Calcutta, if necessary on day-to-day trial and dispose of the suit expeditiously and in any case within three months from today.

5 No costs.

¹C.A.No.9221 of 2016