

T. S – 26/2022(CIS-1666/2017)
(CNR No.WBWM11-000194-2017)

Today is fixed for hearing of petition u/s 151 of CPC dt. 25.08.2023 filed by the defendants.
Both parties file representative hazira through their Ld. Advocate.

Plaintiff did not file any written objection against the said petition .

Ld. Advocate of the defendants submitted before this Court that order dt 01.12.22 be recalled passed by this Court as the suit property consist of total 3 acra 53 decimal of land and the value of the suit property is more than the pecuniary jurisdiction of this Court that is more than Rs/- 60000 and the suit is not at all maintainable as this court has lack of jurisdiction to try this suit. And defendant prayed before this Court to recall the order dt 01.12.2022.

Ld. Advocate of the plaintiff submitted before this Court that order dt 01.12.2022 has been passed by this Court after hearing of both the sides and this Court has hold that the matter is relating with the mix question of law and fact and it will be considered at the time of passing of final judgment of the suit after taking evidence from both the sides. Plaintiff prayed for the rejection of the instant petition.

Heard .Consider.

After hearing of both the sides and perusal of the case record this Court found that the defendant had already raised this issue earlier and this Court has already gave its opinion in its earlier order dt 01.12.2022 elaborately. Moreover this Court has stateted that this point raised by the defendant is irrelevant to discuss at this stage of the suit . This defendant did not prefer any revisional application before the upper forum against the said order and aggitated the same issue before this Court . After considering all the aspect this Court opined that this petition is not at all entertainable. Hence , It is

ORDERED

that the petition dt 25.08.2023 u/s151 filed by the defendant , be and the same is hereby rejected on contest without any amount of cost.

Fix **22.11.2023** for P.H. of the suit.