

17.04.2026

Court No.23

DL/Item No.-5

[Milan, A.R. (Ct.)]

**IN THE HIGH COURT AT CALCUTTA
Civil Revisional Jurisdiction
Appellate Side**

CR-IPD 1 of 2026

**The Indian Performing Right Society Limited
versus
Hotel Appolo & Tours Pvt. Ltd. & Anr.**

Mr. Ranjan Bachawat, Sr. Adv.,
Mr. Soumya Ray Chowdhury,
Ms. Susrea Mitra,
Ms. Samina Khanum,
Ms. Ojasvi Gupta,
Ms. Bhawna Tekriwal,
Mr. Kaustav Misra

....for the Petitioner

Mr. Prabal Mukherjee,
Mr. Suhrid Sur

....for the Opposite Party

1. This is an application filed by one of the defendants in the suit being O.C. Suit No.5 of 2028, now pending before the learned District Judge, Darjeeling alleging that an application, inter alia, under the provisions of Order 7 Rule 11 of the Code of Civil Procedure, 1908 (in short, "CPC") filed by the said defendant has been kept pending after completion of hearing to be disposed of along with main suit.
2. It is further submitted by the petitioner that in view of the ratio laid down in the judgment reported in **(2016)**

14 SCC 275 [R.K. Roja v. U.S. Rayudu & Anr.],

this procedure cannot be adopted. The Order 7 Rule 11, application under CPC, therefor, should be disposed of prior to the suit being taken up for trial.

3. On behalf of the plaintiff/opposite party, it is submitted that there was a previous application for dismissal of the suit filed by the defendant no.1, which has been deposed of.
4. Since the order is not with the learned senior counsel appearing for the petitioner an adjournment is sought for to produce the said order along with copy of the application to find out as to whether the grounds in the previous application and the present application are identical and similar.
5. Let this matter adjourn and appear on 8th May, 2026.

(Arindam Mukherjee, J.)