

11.06.2025
Ct. No. 30
S.L. No. 29
SM

CO 4089 of 2024
Mirza Afjun Nessa
Versus
Sk. Soharab Uddin @ Khokan & Ors.

Mr. Gopal Ghosh, sr. adv.

Mr. Khairul Alam

Mr. Niolfer Siddique Alam

.....petitioner

Md. Shafiul Alam

Md. Basir Layek

Dr. Kalyan Maitra

.....for the opposite party

The present revisional application has been preferred against an order dated 21.03.2024 passed by the learned Civil Judge, Jr.(Divn), 3rd Court, Purba Burdhaman in Title Suit No. 172 of 2015.

Vide the order under challenge the learned Trial Court was pleased to reject the defendant's application under Section 7(1) and 7(2) of the WBPT Act on the ground that the applications were filed beyond the statutory period.

On hearing the learned counsels for both the parties and on perusal of the materials on record, it appears that vide an order dated 03.12.2018 the Court noted that the plaintiffs had filed the amended plaint along with steps upon the substituted defendants on the said date.

It thus appears from the record that the previous service was not proper as the old copy of

plaint was served and not the amended copy of plaint. As such the Court taking that into consideration permitted the plaintiff to serve fresh notice by registered post as per the prayer of the plaintiff, vide order dated 01.02.2019 and fixed 30.04.2019 for SR & AD.

During the said period the substituted defendants on receiving fresh summons along with a copy of the amended plaint appeared before the Court on 04.04.2019 that is prior to the next date of hearing fixed i.e., 30.04.2019 and filed the said applications.

It appears that the defendants thus appeared and filed the applications within the statutory period and as such this Court finds that the order under challenge dated 21.03.2024 is not in accordance with law, as the Court without proper consideration of the orders and materials on record as discussed above held that the defendants had knowledge. The said finding of the Trial Court is contrary to the orders on record and as such cannot be sustained.

Thus, the order dated 21.03.2024 passed by the learned Civil Judge, Jr. (Divn.), 3rd Court, Purba Bardhaman is set aside. The applications under Section 7(1) and 7(2) of the WBPT Act are restored and the learned Trial Court is directed to decide the said applications in accordance with law expeditiously.

Civil Revision 4089 of 2024 is disposed of.

Photostat certified copy of this order, if applied for, being given to the parties on priority basis upon compliance of all formalities.

[Shampa Dutt (Paul). J]