

19.06.2026

Court No.32

DL/Item No.-1

pp.

**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 Bachwat, Sr. Adv.,  
Mr. Soumya Ray Chowdhury,  
Ms. Susrea Mitra,  
Ms. Samina Khanom,  
Ms. Bhawna Tekriwal,  
Ms. Ojasvi Gupta,  
Mr. Kaustav Misra

....for the petitioners.

Mr. Probal Mukherjee, Sr. Adv.,  
Mr. Suhrid Sur

....for the opposite party no.2.

Learned senior advocate representing the opposite party no.2 has placed before the Court an order dated 10<sup>th</sup> September, 2024 passed by the learned District Judge, Darjeeling.

It appears from the said order that an application under Section 151 of the Code of Civil Procedure, 1908 read with Section 60 of the Copy Right Act, 1967 was filed by the defendant no.1 which has not been disposed of as yet. The application for rejection of plaint and/or dismissal of the suit made by the defendant no.2, being the petitioner herein, has also not been decided. The suit is at the stage of trial where cross-examination is

scheduled to be held on 2<sup>nd</sup> July, 2026. A copy of the said order dated 10<sup>th</sup> September, 2024 is retained with the records.

After hearing the parties, it appears that the point raised by the defendant no.2 for rejection of plaint and/or dismissal of suit is on a pure question of law for which evidence is not required to be considered. There is also no issue of *res judicata* standing as an impediment in considering the application of the defendant no.2 as the application filed by the defendant no.1 as aforesaid has also not been disposed of.

In the aforesaid facts and circumstances, I find that instead of passing any order expressing the mind of this Court or making any observation may prejudice the cause of either of the parties, the Trial Judge may also be influenced by such observation and finding.

The safest course open, therefor, is to direct the learned Trial Judge to dispose of the application for rejection of plaint and/or dismissal of the suit filed by the defendant no. 2 prior to further proceeding with the cross-examination.

This is also necessary to save judicial time because the trial of the suit may not be further required if the trial court is of the view that the suit is not maintainable on the grounds alleged by the defendant no.2.

The defendant no.1 is not represented.

However, records reveal that the point raised by the said defendant no.1 is similar to that raised by the defendant no.2, if not identical.

The learned Trial Court shall also make an endeavour to decide the application filed by the defendant no.1 in the suit if the points urged in the application filed by the defendant no.1 and the defendant no.2 are identical or substantially similar to save judicial time.

Nothing further remains in this application to be adjudicated. The same is accordingly disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

**(Arindam Mukherjee, J.)**