

CRP 451/2006

BEFORE

THE HON'BLE MR JUSTICE H. N. SHARMA

Heard Mr DK Mishra, learned senior counsel for the petitioner and Mr KN Choudhury, learned senior counsel for the respondents.

The challenge made in this revision petition filed under Article 227 of the constitution of India is the order dated 14.11.2006 passed by the learned trial Court in Misc Appeal No 28/2006. After elaborate hearing the learned senior counsel Mr Mishra has prayed that he may be permitted to file a separate application specifically under Order 39, rules 1 and 2, CPC, praying for injunction before the learned appellate Court to which Mr Choudhury, learned senior counsel for the respondents, has not objection.

In such a situation, this revision petition stands disposed of with the direction that the learned appellate Court shall hear the appeal finally on 29.11.2006 on which date the appeal has been fixed by him. The petitioner will also be at liberty to file a separate application under Order 39, Rules 1 and 2, CPC, if so advised. In the event of filing such an application, the same shall be duly considered by the learned appellate Court by giving due opportunity to the other parties. It is further observed that in disposing of the appeal, the learned appellate Court shall not in any way be influenced by the impugned order dated 14.11.2006 and the appeal shall be decided strictly on merits.

With the aforesaid direction and observation, the petition stands disposed.