

**CPC O. 9 R. 13 - Ordinarily, a litigation is based on adjudication on the merits of the contentions of the parties. Litigation should not be determined by default, either of the of the plaintiff or the defendant. The basis of justice does require that as far as possible, adjudication be done on merits.**

*Held,*

*The matter arises from a suit for specific performance. It may be true that there is a case for the respondent that the appellant has actually let out the building on rent. The appellant's case is that this is the appellant's residential house and the matter is a loan transaction. Specific relief is undoubtedly a discretionary relief. Appellant has submitted that the appellant is prepared to deposit the entire amount spent by the respondent towards getting sale deed executed. We would think that the interest of justice demands that subject to putting the appellant on terms, an opportunity should be given to the appellant to contest the case and the case must be directed to be disposed of within the time limit. Accordingly, we allow the appeal and set aside the impugned order subject to the following conditions.*

[2019 Scej 3011](#)