

GAHC010230922017



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : MC/33/2017

MOSHT. RAMISHA KHATUN

VERSUS

MOSHT. DILJAN NESHA AND ORS.

Advocate for the applicant(s): Mr. C Sarma

Advocate for the respondent(s): X X

B E F O R E
HON'BLE MR. JUSTICE DEVASHIS BARUAH
ORDER

15.05.2024

This is an application for restoration of the accompanying Civil Revision Petition being CRP No.293/2007 which was dismissed for non-prosecution by

virtue of the order dated 07.12.2012 whereby this Court had made it clear that if steps are not taken by 10.12.2012, the petition shall stand dismissed without any further reference to the Court. This Court had taken note of that no such steps had been taken and as such the accompanying revision petition stood dismissed.

2. This Court further takes note of that even, thereafter also, after a period of five years, the instant application was filed which categorically shows the total lack of diligence on the part of the petitioner.

3. Under such circumstances, this Court finds that on account of lack of diligence, the instant application for restoration CRP No.293/2007 of cannot be allowed.

4. In addition to that, this Court has also taken note of the order impugned in the accompanying revision petition whereby the order dated 12.02.2007 passed in Title Suit No.15/1993 has been challenged. A perusal of the said impugned order reveals that on various occasions adjournments were taken for filing of the evidence on affidavit by the plaintiff which was not done.

5. This Court finds it relevant to take note of that Order XVII Rule 1 categorically mandates that there should not be more than three adjournments at a stage of a suit. In the accompanying revision petition, the plaintiff had sought for more than that and was also granted more leniency. Under such circumstances, this Court is also of the opinion that the order dated 12.02.2017 does not call for any interference under Article 227 of the Constitution. Consequently, this Court on taking into account the merits of the case also is of the opinion that it is not a fit case for restoration of the accompanying revision petition which had been dismissed for non-prosecution as provided in the order

dated 07.12.2012.

6. Interlocutory application accordingly stands disposed of.
7. The Registry shall intimate the learned Trial Court to proceed with the Title Suit No.15/1993 pending before the Court of the learned Munsiff, North Salmara, Abhayapuri in accordance with law forthwith.

JUDGE

Comparing Assistant