

04.07.2022
(D/L-11)
Ct.-18
(Susanta)

C.O. 1600 of 2009
With
I.A. No. CAN 1 of 2017 (Old CAN 2747 of 2017)
I.A. No. CAN 2 of 2017 (Old CAN 2752 of 2017)

Alauddin Molla & Ors.
-Vs-
Sattar Molla & Ors.
Mr. K. Ghosal,
.... For the Petitioners.

Re: I.A. No. CAN 1 of 2017
(Old CAN 2747 of 2017)
&
I.A. No. CAN 2 of 2017
(Old CAN 2752 of 2017)

The revisional application was dismissed for default on May 17, 2016.

These are the applications for recalling of the said order of dismissal and condonation of delay thereto.

Perused the applications.

The delay has been satisfactorily explained, it appears that the petitioner was prevented by sufficient cause from appearing before the Court when the matter was called on for hearing.

The order dated May 17, 2016 is, therefore, recalled.

C.O. 1600 of 2009 is restored to its original file and number.

The applications being I.A. No. CAN 1 of 2017 (Old CAN 2747 of 2017) and I.A. No. CAN 2 of 2017 (Old CAN 2752 of 2017) are thus disposed of without any order as to costs.

Re: **C.O. 1600 of 2009**

Affidavit-of-service filed on behalf of the petitioners in Court today be kept with the record.

None appears on behalf of the opposite parties to oppose the application.

The revisional application under Article 227 of the Constitution of India is at the instance of the plaintiffs in a suit for partition and is directed against the order no. 93 dated March 12, 2009 passed by the Seventh Court of learned Civil Judge(Senior Division), Alipore District 24-Parganas (South), the said suit being Title Suit no. 45 of 2003.

The learned Trial Judge by the order impugned has dismissed an application filed by the plaintiffs seeking amendment of the plaint.

The plaintiffs have alleged that on the inspection of the suit property by an Advocate Commissioner it was found that one of the defendants has executed construction work over a portion of the suit property, the plaintiff by the proposed amendment sought to bring the said fact on record.

The learned Trial Judge has dismissed the said application holding that in view of the

nature of the suit the said amendment is not relevant and/or necessary.

This Court does not find any illegality and/or infirmity in the order impugned warranting interference.

C.O. 1600 of 2009 is dismissed with the above terms without any order as to costs.

The learned Trial Judge is requested to expedite the disposal of the suit.

Urgent photostat certified copy of this order, if applied for, be supplied to the party subject to compliance with all requisite formalities.

(Biswajit Basu, J.)