

21-09-2021
Item no.8
Subrata

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction

CAN No.4 of 2021
in
FA No.112 of 1992
Smt. Benia Bewa & Ors.
-vs-
Anoda Bewa & Ors.

Mr. Sanjoy Ghosh ...for the appellants

Mr. Sukanta Chakraborty
Mr. Anindya Halder ...for the respondents

We find no reason to allow this application for restoration – CAN No.4 of 2021.

This is an application for restoration of a restoration application which was dismissed for default. The restoration application was taken out some three years after dismissal of the appeal for default. The second restoration application was within time.

The suit before the learned court below is of 1974. The challenge is to a preliminary decree. The history of this case is a glaring example of the long and dilatory process in our legal system.

We find that sufficient cause has not been shown for the delay or for the absence of the appellant when the appeal and the application were dismissed.

We, however, in the interest of justice, direct that the point of challenge in the appeal, namely the alleged error in the preliminary decree regarding declaration of the shares of the parties, may be revisited by the learned court below, if there is some substance in the allegation, at the time of passing of the final decree.

We further direct that the suit should be decreed as expeditiously as possibly, not later than one year from today.

The application – CAN No.4 of 2021 – is dismissed.

[I.P. Mukerji, J]

[Aniruddha Roy, J]