

S/L 95
25.11.2022
Court No.652
SD

SA 151 of 1986
With
CAN 15 of 2020
(Old No. 1719 of 2020)

Sri Paritosh Laha, since deceased, represented by his legal
heirs, Smt. Malati Laha & Ors.

Vs.

Sri Gobinda Chandra Dutta & Ors.

Mr. Arijit Bardhan

Mr. Sayon Sinha

Mr. Rishabh Dutta Gupta

...for the Applicants/Appellants.

Mr. Udayan Ray

...for the Respondents.

CAN 15 of 2020:-

This is an application for recalling of an order dated 15.01.2020 wherein the applications being CAN 6504 of 2018 and CAN 2622 of 2018 in connection with SA 151 of 1986 were rejected for non-prosecution.

The appellants contended that the second appeal on various occasions came up for consideration before various appropriate Benches of this Court and on January 16, 2009 the said appeal suddenly appeared in the daily supplementary list and the appellant duly appeared in the said matter and prayed for accommodation.

Subsequently, on the next date, i.e., in the month of January 2010, the erstwhile advocate fell severely ill and became completely bed ridden due to parkinson disease.

The petitioner states that on March 5, 2018 for the first time the petitioner's came to know about the dismissal order. Thereafter, the appellants filed the

recalling/restoration application being CAN 2622 of 2018 before the court. The appellants also filed an application for expunging the name of appellant no.5, Tarak Chandra Laha being CAN 6504 of 2018.

Since filing of the restoration application, the learned advocate on record of the appellants mentioned the aforesaid application for inclusion in the list and upon inclusion the advocate was diligently following the daily supplementary list.

On January 15, 2020 this court taken up the said two applications for hearing but none appeared on behalf of the parties and no accommodation was sought for before the Court and as such, this court was rejected both the applications vide order dated January 15, 2020.

Learned counsel appearing on behalf of the respondents raised objection contending that for a long time the case is pending and the appellants are not at all diligent in conducting the case and as such, he prays for rejection of the application.

Having considered the aforesaid facts and circumstances of the case and the grounds shown in the petition, the prayer for restoration of CAN 2622 of 2018 and CAN 6504 of 2018 in connection with SA 151 of 1986 is allowed subject to payment of costs of Rs.4,000/-.

The appellants shall pay the costs of Rs.4,000/- to the Calcutta High Court Legal Services Authority within seven days.

Upon receipt of such payment, the CAN 2622 of 2018 and CAN 6504 of 2018 in connection with SA 151 of 1986 will be restored to its original file and number.

Accordingly, CAN 15 of 2020 (Old No.1719 of 2020) is allowed.

S.A. 151 of 1986:-

Let the matter appear one week hence.

(Ajoy Kumar Mukherjee, J.)