

20.04.2021

Sl. No.6

Court No.9
BM.

-

SA/168/2012

With

IA No.: CAN/2/2019(Old No.:CAN/12428/2019)

Anjali Panja & Ors.

Vs.

Satyabala Das

Mr. Arup Krishna Das

... for the appellant

(Via Video Conference)

Re: IA No.:CAN/2/2019 (Old No.:CAN/12428/2019)

Affidavit of service filed shows item delivery has been confirmed therefore, the application being IA No.: CAN/2/2019 (Old No.:CAN/12428/2019) is taken up for hearing.

Heard learned advocate for the appellants. This is an application for restoration by recalling the order dated 4.11.2019 passed by the Hon'ble Justice Bibek Chaudhuri. The explanation given in the application for non-appearance on the date fixed for hearing of the appeal when the matter was called on, no accommodation of time was sought for but the petitioner has pointed out that the matter was listed before the Hon'ble Justice Sahidullah Munshi and after the change in determination it came to be listed before the Hon'ble Justice Bibek Chaudhuri under the

heading "Hearing" but on 4.11.2019 the learned advocate on behalf of the appellant could not attend the court for her illness and was not able to attend the Court. The grounds so taken is not very sound in view of no medical paper showing the inability of the learned counsel for non-appearance of learned counsel in the court on the date for hearing. However, considering the first default and further bearing in mind that the litigant should not suffer for non-appearance of the learned counsel, the prayer for restoration of the appeal to its original file and number is considered. Accordingly, order dated 04.11.2019 dismissing the appeal for default is recalled and the appeal being S.A No.168 of 2012 is restored to its file and number.

Thus, IA No.: CAN/2/2019 (Old No.: CAN/12428/2019) is disposed of however, without any order as to costs.

Let the appeal be listed for final hearing in the monthly list of May, 2019 with the direction to the appellant to inform the learned advocate for the appellant about the listing of the appeal.

(Shivakant Prasad, J.)