

06.04.2021

Sl. Nos.10 & 11

Court No.9
BM.

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SA/117/1997

Debendra Chandra Das

Vs.

Narayan Ch. Das

With

IA No.CAN/1/2004(Old No.CAN/7264/2004)

With

IA No.CAN/2/2019(Old No.CAN/9759/2019)

With

IA No.CAN/3/2019(Old No.CAN/9784/2019)

With

SA/118/1997

Debendra Chandra Das

Vs.

Narayan Chandra Das

With

IA No.CAN/1/2019 (Old No.CAN/9848/2019)

With

IA No.CAN/2/2019(Old No.CAN/10073/2019)

(Via Video Conference)

Mr. Sagnik Chatterjee

Ms. Prajaini Das

... for the appellant

Mr. Srinjay Sengupta

Mr. Sourav Roy

Mr. Narattam Acharyya

Mr. Ankush Ghosh

... for the respondent

Both the applications in substance are for condonation of delay of 73 days in not filing application for restoration being IA No.CAN/2/2019 (Old No.CAN/9759/2019) in connection with SA 117 of 1997. The grounds taken is that since the month of June, 2018 the file of the petitioner was not traceable

in any of the chambers of the learned advocates who were juniors in the chambers of Hon'ble Justice Sabyasachi Bhattacharjee. After elevation of Justice Sabyasachi Bhattacharjee, Mr. Abul Hasan who was the registered Clerk could not give proper contact. The petitioner has sought for condonation of delay of 73 days and to recall the order of dismissal of both the appeals being S.A 117 of 1997 with S.A 118 of 1997.

I have heard learned advocate for the parties. This Court finds from the order dated 30.08.2016 that both the appeals were earlier dismissed for default for want of prosecution because in spite of repeated calls, none appeared to address the Court. Nodoubt the appeals are pending since 1997. Thus, dismal conduct of the appellant in writ large to say that they are not diligently taking up the appeal and the grounds, for non-appearance on call is also not just. However, taking a lenient view in the matter and considering that for non-appearance of Advocate, a litigant should not suffer, the order dated 12th June, 2019 be recalled on condonation of delay of 73 days subject to deposit of costs of Rs.20,000/- with the State Legal Services authority which amount shall be utilised by authority of the State Legal Services for the welfare of destitute children. LCR be called for from the learned courts below by Special Messenger at the costs of the appellants within 7 days.

The application being IA No.CAN/2/2019 (Old No.CAN/9759/2019), IA No.CAN/3/2019 (Old No.CAN/9784/2019), IA No.CAN/1/2019 (Old No.CAN/9848/2019) and IA No.CAN/2/2019(Old No.CAN/10073/2019) are, thus, disposed of.

List the matter for hearing of the appeal for final hearing of the appeal in the monthly list of June, 2021.

(Shivakant Prasad, J.)