

11 25.02.2022

Ct-08

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FMAT 566 of 2019

with

I.A No. CAN 3 of 2021

Ranjit Poddar & Ors.

Vs.

Prasanta Bhattacharjee & Ors.

Mr. Kaushik Chatterjee

Mr. Suparno Ghosh

... For the Appellants

Mr. Kushal Chatterjee

Mr. Abir Lal Chakraborty

Mr. Debrup Choudhury

... For the Respondents

Re: CAN 3 of 2021 (Restoration)

This is an application for restoration of the appeal and the application for stay, which stood dismissed for default on September 03, 2019, upon condonation of delay in filing such application.

Sufficient cause being shown for delay in preferring the application for restoration and for non-appearance of the appellants on September, 03, 2019, when the appeal along with application for stay being CAN 5117 of 2019 stood dismissed for default, we allow the application for restoration being CAN 3 of 2021 upon condoning the delay of 534 days in filing such application.

Let the order dated September 03, 2019 is recalled.

The appeal and the application for stay being CAN 5117 of 2019 are restored to its original file and number.

There will be no order as to costs.

Now we take the appeal itself for hearing upon dispensation of all formalities.

After hearing the learned counsel appearing for the parties and considering the balance of convenience and inconvenience, which are likely to be caused, we permit the appellants to raise construction work in terms of the sanctioned plan, but they shall not alienate, encumber or transfer the suit property without express leave of the trial court.

This interim order will continue till the disposal of the suit, subject to any other order passed by the trial court during the pendency of the suit.

Impugned order passed by the learned trial court is accordingly set aside.

Accordingly, the application for stay being CAN 5117 of 2019 is disposed of.

In view of above order, the appeal and the injunction application filed before the learned trial court stand disposed of.

(Ajoy Kumar Mukherjee,J.)

(Soumen Sen, J.)

