

12.03.2021
Sl. No. 41
srm

C.O. No. 2778 of 2019
With
CAN 1 of 2021
Sri Shantonil Chatterjee
Vs.
Smt. Shanta Chatterjee

Mr. Debabrata Dhar,
Mr. Prodyot Kumar Ray

...for the Petitioner.

Re: CAN 1 of 2021

Affidavit of service is taken on record.

It appears that the opposite party has been served with a copy of the application being CAN 1 of 2021.

This is an application for restoration of the revisional application upon condonation of delay, by recalling the order dated November 26, 2019, by which the revisional application bearing C.O. No.2778 of 2019 was dismissed for default.

Upon perusal of the grounds set forth in paragraphs 4, 5 and 6 of this application, this Court is satisfied that the petitioner was prevented by sufficient cause for not being able to attend the Court when the matter was dismissed for default. The Court is also satisfied with the reasons assigned for the delay in filing the restoration application.

Let the order dated November 26, 2019 be recalled.

The application being CAN 1 of 2021 is allowed and disposed of accordingly.

The civil revisional application being C.O. No.2778 of 2019 is restored to its original file and number.

Re: C.O. No. 2778 of 2019

The petitioner is aggrieved by the order dated July 17, 2019 passed by the learned Additional District Judge, Fast Tack Court-II, Sealdah by which the learned Court adjourned the hearing of the application under Order 7 Rule 11 of the Code of Civil Procedure at the request of the petitioner but imposed cost. The petitioner is aggrieved by imposition of cost of Rs.1,000/-. Hence the revisional application has been filed.

In the order impugned, the learned Court below has observed that at the belated stage of the suit, the petitioner filed an application under Order 7 Rule 11 of the Code of Civil Procedure and on the date the application was taken up for hearing, the petitioner was not ready to argue the same. The learned Advocate for the plaintiff was prepared to argue but, when the learned Advocate for the petitioner was asked to start the hearing of the application under Order 7 Rule 11 of the Code of Civil Procedure, the learned Advocate for the petitioner submitted that he was not ready with the case and

wanted an adjournment. The learned Court below observed that in the belated application under Order 7 Rule 11 of the Code of Civil Procedure a prayer for adjournment was not warranted, when the evidence had started. The learned Court below granted time to the petitioner by imposing costs of Rs.1,000/- for delaying the suit.

I do not find any illegality in the order impugned and the learned Court below has given sufficient reasons as to why the costs of Rs.1,000/- has been imposed.

Under such circumstances, this revisional application is dismissed.

There will be, however, no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties on priority basis.

(Shampa Sarkar, J.)