

13.01.2021
Ct. No.9
S/L No.11
KS

S.A.T 599 of 2013
With
IA No. CAN 3 of 2019 [Old No. C.A.N. 6610 of 2019]
Syed Samsad Ahmed alias S. Shamsaad Ahmed
-Vs.-
The IISCO Steel Plant (SAIL) & Ors.
(Via Video Conference)

Mr. Pinaki Dhole
.....For the Appellant

IA No. CAN 3 of 2019 [Old No. C.A.N. 6610 of 2019]

Affidavit of service filed in Court be taken on record which shows that the service has already been effected upon Mr. Laxmikanta Pal, learned advocate appearing for the respondents. It is also reflected from the routine order of this Court that two copies of Paper Books were received on 13.07.2016 filed by the appellant and one copy of Paper Book has been served upon Mr. Laxmikanta Pal by Mr. Pinaki Dhole for the appellant and the acknowledgement letter was kept with the file. Therefore, the service is considered as complete.

Now, the application for restoration of recalling the order dated 21.06.2019 passed by the Hon'ble Justice Bibek Choudhuri in S.A.T. No.599 of 2013 is taken up for consideration.

Mr. Pinaki Dhole, learned advocate appearing for the appellant adverts to the averments made in paragraphs 7, 8, 9, 10 and 11 to contend that on 21.06.2019 the learned advocate appearing for the appellant could not attend the Hon'ble Court due to some personal difficulty and he had instructed one of his colleague to keep watch on the said matter during his absence. But, when the matter was called his colleague was engaged in another Court for another proceedings who had the impression in mind that the hearing of the second appeal would take some time and he had not noticed the matter having been called which was dismissed for non-appearance by any party. Having checked the list dated 01.07.2019, the learned advocate for the appellant noticed that the instant appeal is not appearing in the list and on the query came to learn that the matter was dismissed for default.

It is submitted that there is no laches or lack of bona fide on the part of the petitioner/appellant on good faith had entrusted the matter pressing the appeal on behalf of the appellant but due to reason stated above, the learned advocate could not appear which was beyond his control. Accordingly, the appellant has prayed for recalling of the order dated 21.06.2019.

Having heard the learned advocate for the appellant and on perusal of the averments made in the application sufficient explanation for not appearing in the matter already mentioned

and further considering that there is only one default and the appeal is ready for its decision on merits as the paper book is made ready, the order of dismissal dated 21.06.2019 be recalled.

Let the appeal be restored to its original file and number.

The application being, IA No. CAN 3 of 2019 [Old No. C.A.N. 6610 of 2019] is disposed of, however, there shall be no order as to costs.

Department is directed to do the needful.

Let the appeal be listed on 20.01.2021 for final hearing of the appeal.

Learned advocate appearing for the appellant is requested to intimate the gist of the order to Mr. Laxmikanta Pal, learned advocate appearing for the respondents, in the meantime.

(Shivakant Prasad, J.)