

13      **08.09.  
2023**

Ct. No. 04

Ab

**FA 149 of 2019  
IA No. CAN 2 of 2021**

**Smt. Lovely Sil nee Biswas  
Vs.  
Ashim Kumar Sil.**

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**Mr. Avishek Choudhury.**

**... for the appellant/applicant.**

**Mr. Md. Nurezaman,  
Mr. Jahangir Badsha.**

**... for the respondent.**

**Re: CAN 2 of 2021**

This is an application for restoration of the appeal, which was dismissed for default on 17<sup>th</sup> February 2020.

The instant application was taken out in the year 2021 stating that the applicant could not take steps because of the pandemic situation but immediately after coming to know that the appeal was dismissed for default on 17<sup>th</sup> February 2020, steps were taken.

It is no doubt true that after dismissal of the said appeal the pandemic struck and there was a complete disruption in the normal life including the Court proceeding.

In view of the judgment of the Apex Court, the applicant is entitled to get the benefit of the Limitation Act and, therefore, we do not find that the plea of limitation, as taken by the respondent, is tenable.

Considering the explanations offered in the instant application, we are satisfied that the applicant was prevented by sufficient cause in not appearing on the fateful day when the appeal was called on and dismissed for default.

In view of the above, the application for restoration is allowed. The appeal is restored to its original file and number.

It appears that the Lower Court Record has arrived but the paper books have not been filed as yet.

Accordingly, the appellant is directed to prepare and file eight copies of informal paper books – printed, typewritten or cyclostyled, as the case may be – out of court, within a period of four weeks from date. In default, the appeal shall stand dismissed.

Liberty is granted to pray for listing of the appeal after the paper books are filed.

**(Harish Tandon, J.)**

**(Prasenjit Biswas, J.)**