

08.02.2022
SL No.15
Court No.8
(sg/gc)

SAT 446 of 2019
With
CAN 1 of 2020
(Old No: CAN 714 of 2020)
with
CAN 2 of 2021
with
CAN 3 of 2021
With
CAN 4 of 2021

Ratan Lal Sharma
Vs.
Gopal Krishna Khatick
(Via Video Conference)

Mr. Asis Bhattacharyya,
...for the Appellant.

In spite of service of the applications being CAN 2 of 2021, CAN 3 of 2021 and CAN 4 of 2021, the respondent/plaintiff is not represented nor any accommodation is prayed for on behalf of the said respondent/plaintiff.

The affidavit of service filed in Court is kept with the record.

Re: CAN 3 of 2021
with
CAN 4 of 2021

The application for condonation of delay, being CAN 3 of 2021, along with the application for restoration, being CAN 4 of 2021 is taken up together and disposed of by this common order.

Sufficient cause being shown for non-appearance on 5th February, 2020 and we are satisfied with the explanation offered for not being able to file the application for restoration within the period of limitation.

Accordingly, we condone the delay in filing the application for restoration. The application for restoration is allowed by recalling the order dated 5th February, 2020.

The second appeal, being SAT 446 of 2019, is thus restored to its original file.

Accordingly, the applications being CAN 3 of 2021 and CAN 4 of 2021 are disposed of.

Re: CAN 2 of 2021

This is an application for substitution of the legal heirs of the sole respondent/plaintiff. It is stated that during the pendency of the appeal, the sole respondent died leaving behind the legal heirs and representatives. The particulars of the legal heirs are described in paragraph 2 of the petition. All the legal heirs are major and sui juris and right to sui survives on them.

In view thereof, this application for substitution is allowed.

The department is directed to carry out necessary amendment within two weeks from date. This order shall be immediately communicated by the learned Advocate for the appellant to the department for carrying out necessary amendment.

The application being CAN 2 of 2021 is, accordingly, disposed of.

**Re: CAN 1 of 2020
(Old No: CAN 714 of 2020)**

Earlier we directed service of CAN 714 of 2020 along with the pending applications. It appears from the affidavit of service that CAN 714 of 2020 was not served upon the respondent/plaintiff. Accordingly, we direct the appellant to serve a copy of CAN 714 of 2020 upon the respondent/plaintiff by Speed Post with Acknowledgement Due along with a copy of this order.

The matter is made returnable on 1st March, 2022.

The affidavit of service shall be filed on the adjourned date.

(Ajoy Kumar Mukherjee, J.)

(Soumen Sen, J.)