

09.10.2020

Sl. No.7

Ct-13

BM

C.O. 1251 of 2020

Md. Shakeel

Vs.

Angus Jute Works

Mr. Ujjal Roy

... for the petitioner

The petitioner suffered a decree. The decree was neither appealed nor was the same challenged under the provision of Order 9 Rule 13 of the Code of Civil Procedure, 1908, though the petitioner alleges that the petitioner had no notice of the suit. At the execution stage the petitioner filed an application under Section 47 of the Code of Civil Procedure, 1908. Section 47 application had to be adjourned from time to time on various grounds including the illness of the petitioner's Advocate.

On 4th July, 2018 the adjournment was allowed as a last chance and the petitioner being the judgement debtor was directed to be present on the next date i.e. 19th September, 2018 for hearing of the application under Section 47 of the Civil Procedure Code, 1908. On 19th September, 2018 the petitioner filed an application under Order 6 Rule 17 of the Code of Civil Procedure for amending the application under Section 47. However, on that date again an

adjournment was sought on the ground of illness of father of the learned advocate representing the petitioner/judgement debtor. No medical certificate was produced in support of the illness of the father of the advocate representing the petitioner/judgement debtor. The court below therefore refused to grant the adjournment and dismissed the said Section 47 application.

Subsequently, the petitioner filed an application for restoration of the application under Section 47. The court below after considering the materials on record including the order sheets and the manner in which the proceeding was carried on finding it fit not to restore the application under Section 47.

After considering the material on record and hearing the advocate for the petitioner, I find no infirmity or illegality or perversity in the order impugned. The same is backed by reason after considering the material facts as also the provisions of law.

The revisional application fails. The same is dismissed.

Since I have not called for any affidavit the allegations contained in the application are deemed to have been not been admitted by the opposite party.

(Arindam Mukherjee, J.)