

D/L
Item No. 4
07.12.2021
KOLE

**FMA 501 of 2020
With
CAN 4045 of 2019**

**Rupa Dasgupta @ Chowdhury
-Vs.-
Mr. Tapas Chatterjee & Anr.**

*Mr. M. Maity,
Mr. M. Sarkar*

...for the appellant.

*Mr. D. Saha Roy,
Mr. A. K. Nag,
Mr. S. Das,*

...for the Corporation.

CAN 4045 of 2019 is treated as on day's list.

By consent of the parties the appeal and the application are taken up for hearing together.

This appeal is directed against an order dated January 18, 2019 whereby the appellant's application for restoration of a contempt application being CPAN 520 of 2014, which had been dismissed for default, was dismissed.

In the order under appeal it has inadvertently been recorded that the restoration application is one for restoration of the writ petition. However, we have seen the restoration application. The same was for restoration of the contempt petition.

Pursuant to leave granted by this court, the appellant has added the Mayor of the Municipality as alleged contemnor in the contempt petition. We are satisfied that there was good reason for non-appearance of learned

Advocate for the petitioner in the contempt application, on the day the application was dismissed for default.

Accordingly, we set aside the order under appeal and restore the contempt application to its original file and number.

In the event service of the contempt application has not been made on the alleged contemnors, such service shall be effected along with a copy of the writ petition, as it is submitted on behalf of the alleged contemnors that the writ petition was of the year of 2011 and copy thereof is not available with them and affidavit-of-service be filed before the learned Single Judge.

The appeal and the connected application are accordingly disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Arijit Banerjee, J.)

(Kausik Chanda, J.)