

ASR 6.
Ct. no. 24.
21.02.2025

SA 769 of 1990

With
CAN 12 of 2023
With
CAN 13 of 2023
With
CAN 14 of 2024

Smt. Sarmila Das

Vs.

**Mrinalini Das, alias Dasi(since deceased represented
by Murari Sapui & Ors.)**

Mr. Kaustav Banerjee
Ms. Ria Kundu

.....For the opposite parties

None appears on behalf of the appellant.

Mr. Kaustav Banerjee, learned counsel
appearing on behalf of the respondents/opposite
parties.

CAN 14 of 2024 is an application for recalling
and ex parte order passed by this court on 18th
September, 2024 for recalling the trial court record. It
appears that the department has put a note containing,
inter alia, that learned Advocate for the appellant Mr.
Debasish Sur has filed a Vokatnama without taking
'no objection' from previous Advocates namely Amal
Kumar Pramanik and learned Advocate Dhana Krishan
Adhikari.

I have perused the order passed by this court on 18th September, 2024.

The instant appeal was dismissed for default by an order of this court dated 15th March, 2021. Thereafter, the appellant filed two applications i.e. CAN 12 of 2023 and CAN 13 of 2023 for restoration as well as application under Section 5 of the Limitation Act for condonation of delay, respectively. Both the applications are yet to be disposed of. In that situation and tenure, this court passed an order on 18.09.2024. On perusing the order it appears that one accommodation is sought for on behalf of the respondent. However, the order was passed ex parte. Considering the fact and merit of CAN 14 of 2024, it appears to me that the trial court record is not required to be called for until and unless the second appeal be restored.

Under the above observation, I think it necessary to pass an interim order, so that the trial court record which was already called for need not to place before this court.

Let the matter along with CAN 14 of 2024 be appeared in the list on March 7, 2025 under the same heading.

The department is directed to issue intimation upon the office of the learned trial court not to place the TCR till further order.

Respondent is further directed to serve the copy of the application being CAN 14 of 2024 upon the appellant personally through Registered post with A.D. and file affidavit of service on returnable date.

[Subhendu Samanta, J]