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AG 2021
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Ct
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C.O. 1487 of 2021

Smt. Swaraswati Halvain @ Halui
Versus
Smt. Nilam Halvain @ Halui

(Via Video conference)

Mr. Debjit Mukherjee,
Ms. Susmita Chatterjee,
Ms. Dipanwita Ganguly,
Mr. Kaustav Bhattacharya,
... For the Petitioner.

The Court is approached under Article 227 of the Constitution of India soliciting a direction to ensure expeditious disposal of Section 5 application praying for condonation of delay filed in connection with Title Appeal No. 03 of 2019.

Ms. Susmita Chatterjee, learned advocate for the petitioner submits that memo of appeal coupled with Section 5 application was filed on 15.01.2019 in connection with Title Appeal No. 03 of 2019 before the learned District Judge, Hooghly. Subsequently, the opposite party entered her appearance and filed written objection against Section 5 application.

It is contended that unless the delay is condoned with the aid of Section 5 application, the appeal cannot be proceeded further and in consequence thereof, the petitioner has been made to face serious prejudice.

It is brought to the attention of the Court that the next date is fixed on 9th November, 2021 for hearing of Section 5 application under Limitation Act.

The point raised in this case is very short and simple, and it requires no extensive hearing, and this may be disposed of without securing presence of opposite party, particularly when the opposite party has entered appearance and filed written objection responding to Section 5 application before the lower appellate Court. Accordingly, service upon the opposite party stands dispensed with.

Having considered the submission of the learned advocate for the petitioner and bearing in mind the pendency of this Section 5 application, a direction is thus necessary for the disposal of Section application, which obviously got halted due to the proliferation of Covid-19 situation, and functioning of the Court was not an exception to it.

However, learned Court below is directed to dispose of Section 5 application either on the scheduled date, or if for any reasons whatsoever the same could not be done, the matter may be decided within three weeks thereafter peremptorily providing sufficient opportunity of hearing to either of the parties of this case, without granting unnecessary adjournment, unless it is extremely unavoidable.

With these observations and directions the revisional application stands disposed of.

Learned advocate for the petitioner is directed to make communication of this order to the learned advocate appearing in the Court below for the opposite party so that the date fixed in the Court below may be effectively utilised and Section 5 application may be effectively disposed of.

(Subhasis Dasgupta, J)

