

Item-1. 31-01-2025
sg
Ct. 37

FMA 5 of 2022
CAN 2 of 2024

Kalpana Dutta
Versus
Sanjoy Kumar Banerjee

Mr. Tapas Kumar Ghosal
Mr. Tanmay Chowdhury
... for the appellant

Mr. Amit Dash
Ms. Subhra Nag
Ms. Ankana Sarkar
...for the respondent/plaintiff

1. This is an application for modification of the order dated 3rd February, 2022.

2. We permitted the appellant to contest the appeal upon payment of cost of Rs.50,000/- within two weeks from the date of the order i.e. 3rd November, 2022. We made it clear that in the event the said cost is not deposited, the order granting stay shall stand vacated and the impugned order dated 30th November, 2021 shall revive.

3. This application has been filed on 14th November, 2024 for modification of the order. In this application, it is prayed that the appellant may be permitted to deposit the amount of cost within such time as this Court may deem fit and proper.

4. This application does not appear to be bona fide having regard to the fact that the applicant has suppressed the fact that the applicant has filed an application under Section 47 of the Code of Civil Procedure in the execution proceeding that was initiated following the dismissal of the appeal. The

said application was dismissed on contest upon payment of cost of Rs.50,000/-. If we would have expect the applicant to come with clean hand, the conduct does not inspire this Court to favour the applicant.

5. Accordingly, we dismiss this application being CAN 2 of 2024. However, there shall be no order as to costs.

(Soumen Sen, J.)

(Ajoy Kumar Mukherjee, J.)