

M/L.10.
April 7, 2025.
MNS.

FA No. 191 of 2017
+
CAN 7 of 2022
+
CAN 8 of 2022

Harekrishna Das and others
Vs.
Gokul Das and another

Mr. Partha Sarathi Das

...for the appellants.

Mr. Arup Banerjee

... for the respondents.

1. Affidavit-of-service filed today be kept on record.
2. Learned counsel for the appellants submits that the plaintiffs/respondents deposited the amount as directed to be paid in the impugned decree at a belated stage. At the first instance, such late deposit was refused by the Trial Court on the ground of such delay. Again, the respondents renewed their efforts and deposited the same without any formal application, against the acceptance of which a revisional application has been preferred and is now pending before the appropriate Bench.
3. It is submitted that in view of the matter being sub judice before the Revisional Court, no order need be passed at the present juncture and this Court

ought to await the outcome of the said revisional Application.

4. However, since the appeal stands dismissed for default as on today, we do not find any reason to stall the preparation of paper books and other formalities for making the appeal ready for hearing.
5. Needless to say, in the event the defendant/appellant succeeds in the revisional application, it will be open to the appellants to take such point before this Court at the time of hearing of the appeal and/or prior to the same.
6. For the present, we are satisfied that sufficient grounds for the delay in filing of the recalling application has been made out.
7. Accordingly, CAN 8 of 2022 is allowed, thereby condoning the delay in preferring CAN 7 of 2022.
8. In view of the above observations, CAN 7 of 2022 is also allowed, thereby restoring FA No. 191 of 2017 along with CAN 5 of 2022 and CAN 6 of 2022 to their original file and number.

Re: FA No. 191 of 2017

9. In view of the appearance of the respondents through their learned advocate, service of notice of the appeal on the respondents is dispensed with.
10. The Trial Court Records shall be brought by Special Messenger at the cost of the appellants,

which shall be deposited within a week from date, if not already deposited.

11. The appellants shall prepare and file the requisite number of paper books within eight weeks from the date of service of notice of arrival of the Trial Court records on the learned advocate for the appellants.

12. Liberty to the parties to mention the appeal for hearing as and when the same is ready for hearing and/or upon the disposal of the revisional application, whichever is earlier.

(Uday Kumar, J.)

(Sabyasachi Bhattacharyya, J.)