

Dl. September
15. 27, 2022

F.M.A. 2750 of 2016

Sk. Sarauddin

Vs.

Sk. Riajuddin & ors.

The matter was adjourned from time to time on the prayer of the learned advocate for the appellant and the same was adjourned last on September 22, 2022. In our last order, we made it clear that in the event the appellant is not represented on the adjourned date, we might consider the question of admission of appeal on the basis of the materials available on record.

Today the appellant is not represented, nor any accommodation is prayed for. The appeal was tendered in the year 2016, but thereafter no attempt was made to move the appeal. The record would show that the matter was taken up on three occasions and on all the three occasions the matter was adjourned.

The present appeal has arisen out of an order passed by the trial court in connection with an application under Order XXXIX Rule 4 of the Code of Civil Procedure. By the said order, the learned trial judge recalled the ex parte order of injunction after noticing that proceeding before the Lok Adalat, held seven years before the present suit was filed, was suppressed.

In view of such admitted fact, we are not inclined to interfere with the order impugned in this appeal.

The appeal is, therefore, summarily dismissed under Order XLI Rule 11 of the Code of Civil Procedure.

In view of dismissal of the appeal, nothing remains to be decided in the application for injunction filed under CAN 7629 of 2016 and the same is also dismissed.

There will be no order as to costs.

(Soumen Sen, J.)

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(Uday Kumar, J.)