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09-03-2022

Ct. 8

SAT 252 of 2019
CAN 2 of 2019 (old CAN 11830 of 2019)
CAN 3 of 2020 (old CAN 1398 of 2020)

Pachai Bari & Ors.
Versus
Biswanath Ghorai & Anr.

(Through Video Conference)

Mr. Achintya Kr. Banerjee, Adv.
Mr. Jayanta Samanta, Adv.
Mr. Anand Farmania, Adv.
Mrs. Indumouli Banerjee, Adv.
...for the appellants

Mr. Uttiya Ray, Adv.
...for the respondents

Having heard the learned Counsel for the parties, we feel that the learned First Appellate Court has ignored the fact that the appellants were prevented by sufficient cause for not being able to file the appeal within the period of limitation.

It is a fact that due to agitation of the lawyers, the functioning of the courts were disrupted and became irregular for sometime. It was primarily on such reason, the appellants could not file the appeal in an adversarial proceeding. The litigants have to rely upon the lawyers. The litigants should not be penalized in the event such circumstances prevented them to approach the Court within the period of limitation.

On such consideration, we set aside the order passed by the learned Civil Judge (Senior Division) at Bishnupur, Bankura and we request the learned Court to dispose of the appeal on merits within the period of six months from the date of communication

of this order, subject to convenience of the learned Appellate Court, without granting any adjournment to either of the parties unless it is unavoidable.

SAT 252 of 2019 is accordingly, disposed of.

It appears that CAN 3 of 2020 (old CAN 1398 of 2020) was disposed of by the Lawzima Court on 8th September, 2021. However, this application is appearing in the list.

The department is directed to record the disposal of the said application and the same should not be shown as pending.

In view of the fact that the appellants had never enjoyed any order of injunction during the pendency of the trial, we are not inclined to grant any stay of operation of the impugned order.

However, this order shall not prevent the appellants to make appropriate application before the learned Trial Court if circumstances so arise.

CAN 2 of 2019 (old CAN 11830 of 2019) is accordingly, disposed of.

Copies of the memorandum of appeal and CAN 2 of 2019 (old CAN 11830 of 2019) shall be served upon Mr. Uttiya Ray, learned Counsel for the respondents in course of this day.

Mr. Uttiya Ray waives service of appeal upon the respondents.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Ajoy Kumar Mukherjee, J.)

(Soumen Sen, J.)