

15.12.2022
SL No.14
Court No.8
(gc)

SAT 447 of 2017
CAN 1 of 2020 (Old No: CAN 2782 of 2020)
CAN 2 of 2020 (Old No: CAN 2783 of 2020)

Jahar Hazra
Vs.
Kalpana Sardar

Mr. Shanit Sanyal,
Ms. Priyakshi Banerjee,
...for the Appellant/Applicant.

Re: CAN 1 of 2020
(Old No: CAN 2782 of 2020)
With
CAN 2 of 2020
(Old No: CAN 2783 of 2020)

There is a delay of 94 days in filing the application for restoration. Sufficient cause being shown for non-appearance on 28th November, 2019. The second appeal was dismissed for default. We recall the order dated 28th November, 2019 and restore the second appeal to its original file and number.

Accordingly, both the applications are allowed and disposed of.

Re: SAT 447 of 2017

We propose to take up the second appeal for admission. The learned Counsel for the appellant submits that the Trial Court as well as the First Appellate Court has erred in not taking into consideration the right to sue accrued in the year 2011 when the maintenance case is filed by the respondent against the appellant. The appellant filed a suit for declaration that the respondent is not wife of the appellant. We have carefully read the judgments of both the

Courts. It is undisputed that the respondent filed an application before the Judicial Magistrate, 2nd Court, Krishnanagar, Nadia in the year 2003 claiming maintenance. According to sue accrued on and from the year 2003 and not from the year 2011 when a criminal motion was filed by Jahar Hazra against the judgment passed in MR Case No.269(IV)/2003 in relation to the maintenance case.

Both the Courts, in our view, have addressed the issue of limitation in its proper perspective. No substantial question of law is involved in the second appeal.

Accordingly, the second appeal stands dismissed at the admission stage.

However, there shall be no order as to costs.

Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Uday Kumar, J.)

(Soumen Sen, J.)