

S/L 12
13.06.2022
Court No.1
sourav

IN THE HIGHCOUR AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
APPELLATE JURISDICTION

CO 27 of 2022

Chapiyar Rahaman @ Sofiyar Rahaman
Vs.
Md. Majam & Ors.

Mr. Momenur Rahman
Mr. Bikash Singha

*...for the
Petitioner.*

Mr. Saumyajyoti Dutta

...for the Opposite Party No. 1.

The revisional application is directed against a refusal to condone the delay for preferring the appeal.

Learned advocate appearing for the opposite party relies upon ***AIR 2005 Supreme Court 226 (Shyam Sunder Sarma Vs. Pannalal Jaiswal and Others)*** and submits that, an order refusing to admit an appeal presented out of time is nevertheless an appeal in the eye of law for all purposes and that an order dismissing the appeal was a decree that could be the subject of a second appeal. In such circumstances, he contends that, the present revisional application is not maintainable.

As noticed above, the revisional application is directed against an order refusing to admit an appeal against a decree on the ground of delay in preferring the appeal. Such an order, therefore, partakes the character of a decree in view of the ratio of ***Shyam Sunder Sarma***

(Supra). Consequently, the present revisional application is not maintainable.

This order will not prevent the parties from availing of their remedies before an appropriate forum in accordance with law.

Accordingly, CO 27 of 2022 is disposed of.

(Debangsu Basak, J.)