

31.03.2023
SL No.15
Court No.8
(gc)

SAT 86 of 2015
CAN 2 of 2015 (Old No: CAN 2554 of 2015)

Guiram Routh & Anr.
Vs.
Ashok Kumar Singha Roy & Ors.

The appellants are not represented, nor any accommodation is prayed for on behalf of the appellants. The appeal is of the year 2015. The matter initially appeared in the Warning List on 6th March, 2023 and thereafter transferred to the Regular List on 21st March, 2023. Since then the matter is appearing in the list. The appellants have due notice about the listing of the matter.

It appears from the report of the Stamp Reporter dated 13.03.2015 that the appeal is defective. We could have dismissed this second appeal for non-removal of defects. However, we have read the judgment of the Trial Court as well as the First Appellate Court and the grounds of appeal in order to find out whether the second appeal involves any substantial question of law.

The appellate decree dated 17th November, 2014 affirming the judgment and decree dated 7th September, 2004 in a suit for declaration and permanent injunction is a subject matter of this second appeal. The learned Trial Judge decreed the suit in favour of the plaintiffs and declared that the copies of R.S.R.O.R. and L.R.R.O.R. submitted by the defendants are void and not binding

upon the plaintiffs. The Appeal Court affirmed the said judgment and hence this second appeal.

The Title Appeal was delayed by 718 days. The learned First Appellate Court recorded that allowing the prayer for condonation of delay of 718 days, his predecessor has allowed miscellaneous application for setting aside of abatement and substitution. However, in all fairness, the First Appellate Court decided to hear the appeal along with the application for condonation of delay. The Appellate Court dismissed the application for condonation of delay.

However, in view of the fact that the appellants are not represented in spite of adequate notice, we are of the view that the appellants are not interested to proceed with the second appeal.

The second appeal, accordingly, stands dismissed for default.

The connected application also, accordingly, stands dismissed.

Interim order, if any, stands vacated.

(Uday Kumar, J.)

(Soumen Sen, J.)