

21.6.2023

ct. 236

sk,sl. 9

C.O. 1814 of 2014

Dilip Kr. Majumder-vs- Madan Mohan Saha

None appears on behalf of either of the parties.

The Hon'ble Supreme Court in Robin Thapa Vs Rohit Dora, reported in AIR 2019 S.C.C. 3225 held that:

“8 Ordinarily a litigation is based on adjudication on the merits of the contentions of the parties. Litigation should not be terminated by default, either of the plaintiff or the defendant. The cause of justice does require that as far as possible, adjudication be done on merits”.

This application under Article 227 of the Constitution of India challenges the order No. 34 dated 19th December, 2013 by which the learned trial court was pleased to reject the petition filed by the defendant/petitioner on 4th October, 2012 since as the petition was bereft of any explanation as to the delay caused in filing the written statement and the suit was posted for ex parte hearing.

There is nothing to suggest that the learned trial court failed to exercise the jurisdiction vested in it.

That apart by order dated 19th July, 2015, the learned trial court was directed to proceed with the suit by the Co-ordinate Bench.

Considering as such, I am of the view that this revisional application merits no consideration and is dismissed.

(Siddhartha Roy Chowdhury,J)