

13.10.2023
Item No.2
Ct. No.5
CHC

**FMA 2729 of 2013
IA NO: CAN/5/2023**

**Ramjan Mondal & ors.
Vs.
State of West Bengal & ors.**

Mr. Rudra Jyoti Bhattacharjee
...for the appellants

The appeal was dismissed for default on
September 21, 2023.

Appellants seek restoration of this appeal by
this application.

When the restoration application was taken
up for consideration, we requested the learned
advocate for the appellants to address us on the
merits of the appeal.

Learned advocate appearing for the
appellants submits that, he requires more than a
months time to prepare himself on the merits of the
appeal.

Merits of the appeal are one of the pre
requisites for consideration as to whether or not, an
order of dismissal for default should be recalled.
Although Courts are lenient while considering an
application for restoration and the litigant should not
suffer for the conduct of the Advocate, we are
constrained to find that, the appellants seek to have

the appeal restored as a matter of right. Such a stand cannot be accepted.

Since appellants are not interested to proceed with the appeal as appearing from the conduct noted above and since strategically pendency of an appeal should not be countenanced, we find no reason to restore the matter.

CAN/5/2023 is dismissed without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)