

5th March,
2025
(AK)
05

S.A. 455 of 2009
IA No: CAN 11 of 2025
CAN 12 of 2025

Jayanta Kumar Aryya and another
Vs.
Madhushree Nag

Mr. Indra Nath Mukherjee
Mr. Sabyasachi Mukherjee
...for the appellants.

1. The present application has been filed for recall of an order dated October 3, 2024 passed by a coordinate Bench on the ground that the appellants have filed Vakalatnama on March 15, 2022 without taking 'No Objection' from the previous Advocate, which was construed by the coordinate Bench to be a violation of the previous directions of the court.
2. However, from the annexures to the application, we find that the report of the Registrar Administration (L & OM) dated May 1, 2024 indicated that it is the learned Advocate for the respondent nos.1, 2 and 3 who was directed to file Vakalatnama with 'No Objection' endorsement and not the appellants.
3. Hence, the said factor was obviously overlooked by the concerned Division Bench and the appeal could not have been dismissed for non-compliance of the court's direction by the respondents.
4. The delay in preferring the present applications has also been sufficiently explained.

5. Accordingly, CAN 11 of 2025 and CAN 12 of 2025 are allowed, thereby recalling the order dated October 3, 2024 passed in SA 455 of 2009 on condonation of the delay in filing the restoration application and restoring the said appeal to its original file and number.
6. The interim order subsisting on October 3, 2024 before the said dismissal, stands hereby restored in terms of the conditions imposed in the original order granting such interim order, if any.
7. The learned Advocate for the respondent nos.1 to 3 shall positively file a 'No Objection' Vakalatnama within a fortnight from date.
8. In the absence of such Vakalatnama, it will be deemed that the appearance of the erstwhile learned Advocate for the respondents subsists.
9. Let this order be communicated to the learned Advocate having instruction to appear on 'No Objection' on behalf of the respondent nos.1 to 3 by the learned Advocate for the appellants at the earliest.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)