

12-07-2024
Item no.3 AD
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
Appellate Side

CAN No.1 of 2024
in
CAN No.2 of 2024
in
SAT No.63 of 2014
Buro Mullick & Anr.
-VS-
Smt. Rita Bhowmik & Anr.

Mr. Rwitendra Banerjee
Mr. Aritra Roychowdhury ...for the appellants

CAN No.1 of 2024

This is an application for condonation of delay in filing the restoration application (CAN No.2 of 2024).

Sufficient cause is shown. The delay in filing the restoration application is condoned, keeping in mind the ends of justice.

The section 5 Limitation Act application (**CAN No.1 of 2024**) is thus **allowed**.

CAN No.2 of 2024

In this application, the appellants-petitioners seek setting aside of the order dated 23rd November 2021 dismissing the appeal and restoration of it.

The principal ground is sought to be made out in paragraph 8 of the application where it is stated that the erstwhile advocate for the appellants did not inform them that there was a defect in the memorandum of appeal and

that it had to be removed. In addition thereto, in other paragraphs of the application, the illness of the appellants has been highlighted.

Learned advocate for the appellants has brought to this court the certified copy of the impugned judgement and decree.

For the ends of justice, we feel that the appeal should be dealt with and disposed of on merits rather than being dismissed on technical grounds. Some reasonable cause has been made out for making this delayed application and for non-removal of the defects in time.

In those circumstances, we set aside the order dated 23rd November 2021. The appeal be restored to its file and number.

Learned advocate for the appellants is directed to file the certified copy of the impugned judgement and decree in the department by 16th July 2024.

The application – **CAN No.2 of 2024** – is accordingly allowed.

[I.P. Mukerji, J]

[Biswaroop Chowdhury, J]

