

13.09.2024
(D/L-08)
Ct.-19
(Susanta)

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

C.O. 2045 of 2024

Purnima Chakraborty

-Vs-

Sri Ardhendu Bikash Roy & Ors.

Mr. Debjit Mukherjee,
Ms. Susmita Chatterjee,
Mr. Kaustav Bhattacharya,
Ms. Priyanka Jana,

... For the Petitioner.

Ms. Shohini Chakraborty,
Mr. Arijit Sarkar,

.... For the Opposite Parties.

The petitioner was the defendant No. 1 in the *Title Suit No. 141 of 2010*, a suit for declaration of title and injunction.

The 1st Court of learned Civil Judge (Junior Division), Malda by the judgment and decree dated September 20, 2023 had dismissed the said suit; aggrieved thereby, the plaintiffs, the opposite party nos. 1 to 19 have preferred the connected *Title Appeal No. 15, 2023* pending before the learned District Judge, Malda.

The said appeal was filed out of time, as such, an application for condonation of delay was filed.

The learned District Judge by the order impugned being order no. 3 dated April 23, 2024 has allowed the said application *ex parte* without issuing any notice. The procedure in allowing the said application offends the provision of Order XLI

Rule 3A of the Code of Civil Procedure, as such, is not sustainable and is accordingly set aside.

The learned District Judge is requested to decide the said application afresh, on its merit in accordance with law, after giving the petitioner an opportunity of filing written objection to the said application.

Copy of the said application for condonation of delay and the Memorandum of Appeal be served upon the petitioner.

C.O. 2045 of 2024 is disposed of with the above terms without any order as to costs.

Parties to act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)