

Item No. 01

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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

RVW 210 of 2024
With
CAN 1 of 2024
CAN 2 of 2024

Bank of Baroda & Anr.
Vs
Suman Podder

Mr. Diptomoy Talikder,
Ms. Reshmi Hossain
Mr. Ashis Shah.

... for the petitioners.

Mr. Abhimanyu Banerjee,
Mr. Anirban Basak.

... for the opposite party

In re: CAN 2 of 2024

1. This is an application for condonation of delay in filing the instant review petition.
2. On perusal of the petition under consideration and after hearing the learned advocates for the contending parties, this Court is satisfied that the present review petitioner is prevented from sufficient cause in preferring the review application within the period of limitation. Accordingly, the prayer is allowed. The delay in filing review application is hereby condoned. Consequently **CAN 2 of 2024** is disposed of.

In Re: RVW 210 of 2024
CAN 1 of 2024

3. In support of the instant review application, learned advocate for the review petitioners at the very outset draws attention of this Court to the judgment dated 30th November, 2023 passed by this Court in WPA 16083 of 2021. It is submitted that in the said judgment, the contention of the respondent/bank (review petitioner herein) was not considered. It is further submitted that non-consideration of the materials of the affidavit-in-opposition as filed by the respondent/bank in the said writ petition comes under the purview of the 'sufficient cause' for entertaining the instant review application as filed under Order 47 Rule 1 of the Code of Civil Procedure.
4. Such prayer has been opposed by the Mr. Banerjee, learned advocate for the opposite party. It is further submitted by Mr. Banerjee that on the day of passing of the judgment dated 30.11.2023 no such affidavit-in-opposition was on record.
5. On perusal of the entire materials as placed before this court and after hearing the learned advocate for the contending parties, it appears

to this court that admittedly on the day of hearing no such affidavit-in-opposition has been filed. It further appears to this Court that prior to the date of final hearing and passing of judgment that is prior to 30.11.2023, the respondent/bank was represented but for the reason best to known to them the said bank chose not to appear at the time of hearing.

6. A copy of the affidavit-in-opposition which is claimed to have been prepared during the pendency of WPA 16083 of 2021 has been annexed to the review petition. On conjoint perusal of the instant review application vis-à-vis a copy of the said written objection, it does not appear to this Court that in the review petition the respondent/bank is at all successful in establishing any grounds for invoking the Court's power under Order 47 Rule 1 of the Code of Civil Procedure. No material has been placed before this Court that after passing of the judgment dated 30.11.2023, the respondent/bank has either discovered of any new fact which could not be produced before this Court after due diligence or on account of some mistake. The review petitioners have miserably failed to show any error and/or mistake which is apparent on the

face of the record. The review petitioners are also unsuccessful in establishing any other sufficient cause for entertaining the instant review application.

7. It is settled principle of law that while hearing a review application a Court is not expected to act as a Court of Appeal upon its own judgment.
8. In view of the discussion made hereinabove, this Court thus finds no merit in the instant review application.
9. Accordingly, RVW 210 of 2024 along with CAN 1 of 2024 are dismissed.
10. There shall be no order as to costs.
11. Urgent photostat certified copy of the order, if applied for, be given to the parties on usual undertakings.

(Partha Sarathi Sen J.)