

10.12.2024

Sl. No. 22

Ct.No. 236

Amalranjan

IN THE HIGH COURT AT CALCUTTA
CIVIL REVFISIONAL JURISDICTION
APPELLATE SIDE

C.O. 4766 of 2016

With

CAN 1/2024 with CAN 2/2024

Ashok Kumar Show and ors.

Vs

Sri Gopal Chandra Karmakar

Mr. Animesh Paul

Ms. Susmita Ghorai

...for the petitioners

Mr. Sanjib Seth

...for the opposite party

Re: CAN 1/2024 with CAN 2/2024

1. Affidavit of service filed by the petitioners is taken on record.
2. Learned advocates for the petitioners and the opposite party are present.
3. Heard the learned advocates for the parties.
4. This is an application for recalling the order of dismissal dated 13.02.2024 passed by a learned Single Judge of this court.
5. The petitioners have filed an application under section 5 of the Limitations Act with a prayer for condoning the delay of 206 days.
6. It is the contention of the petitioners that on 13.02.2024 when the matter was taken up there was non-appearance of the learned advocate for the petitioners which was not within the knowledge of the petitioners.

7. It is further contended that the petitioners on 05.10.2024 came to know about the order of dismissal passed on 13.02.2024. The petitioners have thus prayed for condonation of delay and recalling of the order dated 13.02.2024. Although, no affidavit-in-opposition has been filed to the application for restoration, but the learned advocate for the opposite party objects to the prayer of the petitioners and submit that the delay is not sufficiently explained.

8. Upon perusing the petition and upon hearing the learned advocates for the parties, this court is of the view that as the petitioners did not have any knowledge of dismissal for default and after the said dismissal the petitioners has changed his learned advocate, in the interest of justice, the order dated 13.02.2024 passed by the learned single Judge in C.O. 4766 of 2016 should be recalled after condoning the delay.

9. Thus, the application for restoration and application for condonation of delay stands allowed.

10. The revisional application being C.O. 4766 of 2016 is restored to its original file and number.

11. Both the applications being CAN 1/2024 and CAN 2/2024 are thus disposed of.

12. Let the matter appear in the list on 3rd January, 2025.

13. All parties are to act in terms of the copy of this order downloaded from the official website of this court.

(Biswaroop Chowdhury,J.)