

01.03.2024
DL-2
(pp)

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
Appellate Side

RVW 40 of 2020
(Assigned)
with
CAN 1 of 2020 (Old No. CAN 1945 of 2020)
CAN 2 of 2020 (Old No. CAN 1946 of 2020)
in
FMA 678 of 2019

The Secretary and Curator, Victoria Memorial Hall
Vs.
Ravi Prakash Gautam & Ors.

Mr. Ambar Majumdar,
Mr. Ashirbad Sarkar
.....for the petitioner.

Mr. Soumya Majumder,
Mr. Puspall Chakraborty,
Mr. Arunabha Sarkar,
Mr. Saptarshi Mukherjee,
Mr. Victor Chatterjee,
Mr. Tirthankar Nandi
....for Victoria Memorial Hall.

In Re: CAN 1 of 2020 & CAN 2 of 2020

CAN 1 of 2020 is an application by the writ petitioner/respondent no.1 made in the disposed of appeal for review of the order dated 26th August, 2019, by which the appeal was finally disposed of. There is also an application, being CAN 2 of 2020, for condonation of delay as the review application has been filed only on 18th February, 2020, that is much beyond the period within which review application is permitted to be made under the provisions of the Limitation Act, 1963.

The delay in filing the review application is condoned for the ends of justice, though the grounds which are cited for the review applicant being prevented from filing the review application are unsatisfactory.

CAN 2 of 2020 is accordingly disposed of.

On a perusal of the grounds of review, it is clear that the review applicant says that the letter dated 12th November, 1991 which was before the appeal Court at the time of passing the order under review had been misconstrued by the appeal Court which resulted in the judgment and order dated 26th August, 2019. Had the said letter being interpreted as seen by the review applicant, the said order would not have been passed.

Review is permissible under the provisions of Order XLI of the Code of Civil Procedure (in short, CPC), 1908 or principles analogous thereto. The instant review having arisen from an order passed by the appeal Court while hearing an intra Court appeal arising out of an order passed in the writ petition, the provisions analogous to Order XLVII of CPC are applicable. None of the tests on the basis whereof the review application can be made are satisfied in this application. Moreover, if any letter is misconstrued, the same at the highest can be a ground of appeal and not one for review.

The review application, therefor, fails and is accordingly dismissed.

CAN 1 of 2020 is also accordingly disposed of.

(Supratim Bhattacharya, J.)

(Arindam Mukherjee, J.)