

Sl.10
10.07.2025
Court No.6
BP

C.O. 364 of 2025

Sri Basan Nandi @ Basan Chandra Nandi
-versus-
Mala Roy

Mr. Biswarup Chatterjee
..for the petitioner

Affidavit of service filed in Court today is taken on record.

None appears for the opposite party.

This application under Article 227 of the Constitution of India is at the instance of the plaintiff and is directed against an order being no. 21 dated 27th November, 2024 passed by the learned Civil Judge (Junior Division), Bishnupur, Bankura in J. Misc. Case No. 03 of 2024.

By the order impugned the application under Section 5 of the Limitation Act was allowed and the delay in filing the J. Misc. Case was condoned.

The petitioner herein filed an application under Section 8 and 9 of the West Bengal Land Reforms Act, 1955. The said suit was decreed ex parte on 23rd March, 2023. The opposite party filed an application under Order 9 Rule 13 of the Code of Civil Procedure praying for setting aside the ex parte decree after the statutory period of limitation. The miscellaneous case was accompanied by an application under Section 5 of the Limitation Act.

The learned advocate appearing for the petitioner submits that the opposite party could not satisfactorily explain the delay.

After going through the materials on record, this Court finds that it is the specific case of the opposite party that summons was not served.

The learned advocate appearing for the petitioner submits that the summons of the suit was duly served.

As to whether the summons was served or not has to be decided in the proceeding under Order 9 Rule 13 of the Code of Civil Procedure. However, this Court finds that the delay in preferring the miscellaneous case has been satisfactorily explained. The learned trial judge was satisfied with the explanation offered by the opposite party for condonation of delay in filing the miscellaneous case. This Court does not find any infirmity in the order impugned warranting interference under Article 227 of the Constitution of India.

At this stage the learned advocate appearing for the petitioner submits that the hearing of J. Misc. Case may be expedited.

In the light of the submissions made by the learned advocate for the petitioner, C.O. 364 of 2025 stands disposed of by requesting the learned Civil Judge (Junior Division), Bishnupur, Bankura to make an endeavour to dispose of the miscellaneous case as expeditiously as possible but preferably within a period of one year from the

next date without granting any unnecessary adjournments to either of the parties.

There shall be, however, no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Hiranmay Bhattacharyya, J.)