

06.08.2025
Court No.25
Item No.91
sudipta

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE**

**C.O. 157 of 2008
With
CAN 1 of 2024, CAN 2 of 2024**

**Sri Pravat Kumar Jana
Vs.
Sri Ashimmoy Maiti & Ors.**

Mr. Anindya Sundar Das
Mr. Saunak Ghosh (via VC)
Ms. Paramita Mondal
Mr. Suman Halder
Ms. Suva Gayen

...for the petitioner

Mr. Santanu Chatterjee
Mr. Rajendra Kumar Nandi

...for the opposite parties

In Re : CAN 1 of 2024, CAN 2 of 2024

1. CAN 1 of 2024 is an application for restoration of revisional application and CAN 2 of 2024 is an application praying for condonation of delay in preferring the restoration application.
2. The petition was dismissed for default on 22nd April, 2016. Present applications have been moved after around 7 years and 3 months of the dismissal of the present petition.
3. Learned counsel for the petitioner submits that the petitioner came to know about the dismissal of the petition in February, 2024 from an execution proceedings. Learned counsel appearing through

video conference submits that the petitioner relying upon his advocate did not come personally to the Court to attend the proceedings. Learned counsel submits that the petition was dismissed in default on account of mistake of the clerk of the erstwhile advocate and the learned advocate. Learned counsel submits that the petitioner may not be penalized for the mistake of the advocate.

4. Learned counsel for the opposite parties has vehemently opposed the applications. Learned counsel submits that the reasons given by the petitioner for delay is not at all plausible and therefore the applications may be dismissed.
5. Perusal of Section 5 of the Limitation Act makes it clear that the delay may be condoned if there are “sufficient cause”. The terms “sufficient cause” has to be constituted liberally so as to advance substantially justice unless and until there are gross negligence of deliberate inaction can be imputed between the parties. In the present case, the petitioner seeks restoration of the petition on the ground that the petitioner came to know about the dismissal only in 2024. Learned counsel submits that the petitioner was relying upon his advocate.

6. The submissions itself cannot be accepted as the petitioner who has invoked the jurisdiction of the Court is duty bound to be vigilant himself of its own rights.
7. A person who was not care about his proceedings for 7 years 3 months cannot mechanically impute the entire mistake on his erstwhile advocate. If the Court starts accepting such submissions in detail, it will send a wrong message. Though while considering the application for condonation of delay, the Court may have a liberal approach, but at the same time it cannot put the other party to the prejudice or take away the right accrued to it. Such an approach may be counter-productive and may cause hardship or inconvenience to the other party. The reason has to be adequate and enough which prevented the party from approaching the Court. The inordinate delay cannot be condoned on the flimsy grounds.
8. The Court considers that there is no sufficient cause for condoning the delay.
9. Hence, the applications being CAN 1 of 2024 and CAN 2 of 2024 stands dismissed.

(Dinesh Kumar Sharma, J.)