

21.08.2025

Sl no. 23

Ct no. 25

P.M.

C.O. 1057 OF 2023

Sumit Ghosh & Anr.

- Vs -

Bharati Sarkar & Anr.

Mr. Sharanya Chatterjee,
Mr. Dipayan Das
... for the petitioner
Mr. Prashant Kumar Singh
... for the opposite party No. 1

1. The present petition has been filed challenging the order dated 11th November, 2022 in Title Suit No. 521 of 2019 whereby the learned Civil Judge, Junior Division, 1st Court, Sealdah dismissed the application under Section 151 C.P.C. for restoration of application under Section 1 sub Section 10 C.P.C. Briefly Stated the facts are that the opposite party/plaintiff filed a suit against the opposite party No. 2 seeking declaration. In that suit the petitioner/plaintiff filed an application under Section 1 sub-section 10 C.P.C. for impleadment. This application was dismissed for default on 4th October, 2021. The restoration application was moved on 22nd August, 2022. Learned trial Judge finding no

sufficient ground for delay and restoration dismissed the application.

2. Learned counsel for the petitioner submits that the opposite party No. 2 i.e. defendant before the learned Trial Court has proceeded ex parte and the right and interest of the present petitioner will be seriously prejudiced, if they are not allowed to contest the suit.
3. Be that as it may be, the question that the petitioner moved an application under Order 1 Rule 10 C.P.C. and the same was dismissed as was not prosecuted. The application for restoration was also moved after around ten months. The litigant has to be vigilant about his rights. The courts cannot give so much of liberty to the individuals that they abuse the same. If a person has failed to pursue his own rights then they are bound to suffer.
4. The Court finds no illegality in the impugned order and the application is dismissed.
5. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Dinesh Kumar Sharma, J.)