

27.03.2025
Court No.13
Item No. 1
sp

RVW 166 of 2024
In
F.A. No. 75 of 2011
With
CAN 1 of 2024
With
CAN 2 of 2024
Shri Sarat Kumar Law
Versus
Mrs. Gouri Law & Ors.

Mr. Jishnu Chowdhury, Id. Sr. Adv.
Mr. Avra Mazumder,
Mr. Neil Hildreth,
Ms. Alisha Das,
Ms. Ujjaini Chatterjee

...for the applicant.

Mr. Souvik Bhattacharya,
Mr. Souvik Mondal,
Mr. Abhirup Halder,
Mr. A. Saha Ray

..for the respondent nos. 1 and 2.

Re: CAN 2 of 2024

1. Affidavit of service filed in Court today is taken on record.
2. CAN 1 of 2024 has been filed seeking condonation of delay in filing the appeal.
3. Sufficient grounds have been made out in the instant application explaining such delay. Hence, the delay is condoned.
4. Accordingly, CAN 2 of 2024 is allowed and disposed of.

Re: RVW 166 of 2024

5. Review is sought of the judgment and order dated 13th September, 2023 passed by this Court by the appellants therein.

6. The principal ground urged for review is a decision of the Civil Civil Court at Calcutta dated 29th April, 2005 passed in T.S. 3 of 1999 (Mahamaya Dasi Vs. Rupsi Sona Law (Laha) and another).

7. By the judgment dated 13th September, 2023 of which review is sought, a judgment and decree passed by the Civil Judge (Senior Division), 9th Court at Alipore in T.S. 26 of 2001 came to be affirmed by this Court.

8. This Court in essence upheld the view of the City Civil Court at Calcutta that a registered trust deed dated 17th September, 1983 by the trustee Mahamaya Dasi could be and was lawfully revoked.

9. The decision of the same Court i.e. the Civil Judge (Senior Division) at Alipore dated 29th April, 2005 was rendered in a suit for eviction filed by the trustee Mahamaya Dasi against the two of the erstwhile beneficiaries under their trust. In the said suit which was dismissed by the said decision dated 29th April, 2005, the learned Civil Judge (Senior Division) at Alipore had, inter alia, held that the trust deed could not have been revoked by the trustee/settler Mahamaya

Dasi without concurrence and consent of the beneficiaries.

10. Given the conflict between two views taken by the said Civil Judge (Senior Division) at Alipore, the present application for review is filed.

11. It is submitted by Mr. Chowdhury, Senior Advocate, that the said decision dated 29th April, 2005 could not be placed before this Court by the plaintiffs in T.S. 26 of 2001 despite due diligence.

12. It is true that a hitherto unavailable fact or circumstance that would have a vital effect on a decision of Court, could be the basis of seeking review of such decision. The benefit may not ipso facto accrue to maintain an application for review of a judgment, when application is founded on another decision of the subordinate court contrary to the judgment appealed and decided upon by this Court in a regular appeal. The contrary view taken in the decision of the Civil Court dated 29th April, 2005 albeit between the same parties herein would be rendered impliedly overruled by this Court's decision dated 13th September, 2023 review whereof is sought.

13. The review applicant cannot on the strength an impliedly overruled decision of the same Court cannot be allowed to reargue the merits and law already

decided and settled by this Court in its order dated 13th September, 2023.

14. To permit the appellants to do so would be completely contrary to the principles of the Civil Procedure Code in general and Order 43 in particular.

15. For the reasons stated hereinabove, RVW 166 of 2024 fails and hereby dismissed.

16. Consequently, CAN 1 of 2024 shall stand dismissed.

17. Interim orders, if any, shall stand vacated.

18. There shall be no order as to costs.

19. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Supratim Bhattacharya, J.)