

20.05.2025
Item No. 5.
Court No.446.
AB

C. O. 2144 of 2024

**Smt. Kaushalya Shaw @ Koushalya Shaw
Vs
Sri Raj Kishore Shaw**

Mr. Partha Pratim Roy,
Mr. Anirban Das,
Ms. Poulami Chakrabortyfor the Petitioner.

1. This is an application filed under Article 227 of the Constitution of India against an order dated April 15, 2024 in connection with Misc. Case No.99 of 2022 whereby the misc. case has been dismissed.
2. It is submitted that though in the order it is mentioned as “Order IX Rule 9 of CPC”, the spirit and purport of this misc. case was originally “Order IX Rule 4 of CPC” and, therefore, the revisional application is maintainable.
3. On consideration of the submission as advanced by learned Advocate for the petitioner and on perusal of the records, it appears that the suit was dismissed for default for non compliance of the Court’s order against which the misc. case was filed under Order IX Rule 9 to set aside the said order and after the same being dismissed on contest, this revisional application is filed. Under Order 43 Rule 3 CPC, a Miscellaneous Appeal is maintainable against an order setting

aside misc case under Order 43 Rule (1)(c) of CPC.

4. Therefore, this revisional application is dismissed being not maintainable granting liberty to the petitioner to approach before the appropriate forum.
5. The petitioner is granted liberty to take back the certified copy of the impugned order for filing afresh.
6. Urgent photostat certified copy of this order, if applied for, be supplied expeditiously after compliance with all the necessary formalities.

(Chaitali Chatterjee (Das), J.)