

Sl.16
01.09.2025
Court No.6
BP

C.O. 3225 of 2025

Kaushalya Rani Charity Trust
-versus-
Dhruv Sahni

Mr. Supriyo Chattopadhyay
Ms. Debosri Chatterjee
... for the petitioner

This application under Article 227 of the Constitution of India is at the instance of the defendant and is directed against an order being no.101 dated August 11, 2025 passed by the learned Judge, 6th Bench, City Civil Court at Calcutta in connection with Misc. Case No. 1067 of 2025.

By the order impugned the miscellaneous case under Order 9 Rule 9 of the Code of Civil Procedure was allowed subject to payment of cost.

The learned advocate appearing for the petitioner submits that though it has been stated in the said application that the opposite party herein who was the petitioner in the miscellaneous case was residing in Dubai, UAE and immediately after being informed by the learned advocate arranged to come down to Kolkata to file the instant application, no documents in support of such contention was filed by the opposite party herein in the said miscellaneous case.

The learned Judge, 6th Bench, City Civil Court at Calcutta after considering the materials on record held that the petitioner had sufficient reason for not taking part in the hearing on 4th January, 2025 when the suit was called on and that too happened due to unavailability of the petitioner in the miscellaneous case on the date of hearing as he had no knowledge of the date fixed. The learned Judge further recorded that the petitioner in miscellaneous case came on the later part of the month and had taken proper steps with affidavit. The learned trial judge after going through the materials on record was satisfied that the petitioner was prevented by sufficient cause for not appearing when on the date was fixed for hearing in the suit.

It is well settled that when the court exercises its discretion in favour of an applicant under Order 9 Rule 9 of the Code of Civil Procedure the superior forum should be slow in interfering with such exercise of discretion by the learned trial judge unless the superior forum finds that such exercise of discretion was improper. After going through the materials on record, this Court is of the considered view that the learned trial judge exercised its discretion properly.

For such reason, this Court is not inclined to interfere with the order impugned.

At this stage, the learned advocate appearing for the petitioner submits that since the suit is pending from the

year 2007 and was at the stage of peremptory hearing when the same stood dismissed for default, the learned trial judge is requested to dispose of the Title Suit No. 2853 of 2007 as expeditiously as possible but preferably by the end of the month of June, 2026 without granting any unnecessary adjournments to either of the parties. This order has been passed taking note of the fact that the suit is pending from the year 2007.

With the above observations and directions, C.O. 3225 of 2025 stands disposed of.

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.)