

Item No.15
01.09.2025
Court. No. 1
B.Pal

**Calcutta High Court
In the Circuit Bench at Jalpaiguri**

CO 83 of 2025
With
CAN 1 of 2025

B.R. REAL ESTATE PRIVATE LIMITED
VS
RANJIT DEB SINGHA

Mr. Navin Barik
Ms. Esha Acharya
... for the petitioner.

Mr. Nripen Das
Mr. Digen Sarkar
Mr. Debanjan Das
...for the Opposite Party

1. This is an application challenging an order passed by the Additional District Judge, 2nd Court at Siliguri in Misc Appeal No.09 of 2024. The Misc Appeal arose out of an order passed by the Learned Civil Judge (Senior Division) Siliguri dated April 29, 2024. By the said order, the learned Trial Judge dismissed the application under Order 9 Rule 13 of the Code of Civil Procedure along with the application for condonation of delay in filing the said proceeding. The defendant preferred a Misc. Appeal.
2. Mr. Das, learned advocate for the defendant/opposite party submits that the order of the learned Trial Judge was palpably

illegal and as such, the appeal court rightly allowed the appeal, thereby, directing the learned Trial Judge to hear the application for condonation of delay first and then decide the matter in accordance with law, only if the delay was condoned.

3. Mr. Barik, learned advocate for the petitioner submits that irrespective of the merits of the Misc. Appeal, the learned appellate court ought to have allowed the plaintiff/petitioner, who was a respondent in the appeal, to make submissions on the merits of the Misc. Appeal.
4. Mr. Barik has referred to an order dated November 18, 2024, by which January 21, 2025 was fixed for SR and Appearance. It was further directed that the requisite should be put in at once. Ignoring such order, the learned appellate court allowed the put up petition on January 2, 2025 and disposed of the appeal without hearing the petitioner.
5. The merits in the order of the Trial Court is not to be adjudicated in this proceeding, but the procedure followed by the learned Additional District Judge was improper, erroneous and unjust. The order impugned suffers from procedural irregularity.
6. Under such circumstances, this revisional application is allowed. The order impugned is set aside.

7. This Court does not make any observation on the merits involved in the Misc. Appeal. The learned Appellate Court shall decide the Misc. Appeal No.9 of 2024 afresh, upon allowing the petitioner to enter appearance and make necessary submissions and also allow the petitioner to file necessary objection.
8. Both parties shall be heard. Needless to mention, in view of the delay already caused, the learned Judge shall make a sincere endeavour to dispose of the appeal within a period of eight weeks from the date of communication of this order.
9. Both parties are at liberty to communicate a server copy of this order before the learned Appellate Court and request for an urgent date.
10. With the disposal of the revisional application, the connected application is also disposed of.

(Shampa Sarkar, J.)