

S/L 36
11.08.2025
Court. No. 3
Suwayan

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE**

CO 134 of 2025

**ESSAM Juti Mill
Vs.
Mamoni Routh**

*Mr. Shubhankar Dutta
Ms. Somdutta Patra
Ms. Swagata Mitra*

...for the petitioner.

1. The subject matter of challenge in the instant revisional application is the Order no. 3 dated 17.12.2024 as passed in Misc. Case no. 01 of 2024 by the learned Commissioner, Employee's Compensation, North Bengal Region at Jalpaiguri whereby and whereunder the said court allowed Misc. Case no. 01 of 2024 and restored the original claim application to its original file and number.
2. At the time of hearing, learned Advocate appearing on behalf of the revisionist submits before this Court that while passing the order impugned the said Commissioner unilaterally allowed the application for restoration as filed by the opposite party herein without causing any service of notice upon the present revisionist who is the opposite party in Claim Case no. 58 of 2015.
3. It is submitted that the said Commissioner has failed to visualize the true spirit of Order IX Rule 9 CPC while passing the impugned order dated 17.12.2024.
4. On careful consideration of the entire materials as placed before this Court and after hearing the learned Advocate for the revisionist if I look to the Order no.

46 dated 16.01.2023 it reveals that the said claim case was dismissed on account of none appearance of the petitioner when none appears on behalf of the opposite party in the said claim case.

5. On perusal of the Order no. 01 dated 21.02.2024/26.11.2024 (probably due to typographical mistake) it reveals that for restoration of Claim case no. 58 of 2015 the opposite party herein has filed an application under Order IX Rule 4 CPC.
6. Though in the impugned order the said Commissioner recorded such application under Order IX Rule 9 CPC, however, in considered view of this Court such application should be treated as Order IX Rule 4 CPC inasmuch as in view of the fact on the day of dismissal of Claim case no. 58 of 2015 the opposite party of the said claim case who is the revisionist herein is also absent.
7. It is settled principle of law that in such a situation for restoration of the original claim case Order IX Rule 4 CPC applies and for disposal of the same no notice is required to be served upon the opposite party.
8. In view of such, this Court finds no infirmity in the impugned order.
9. In considered view of this Court the Order no. 03 dated 17.12.2024 as passed by the said Commissioner in Misc. Case no. 01 of 2024 is perfectly justified.
10. With the aforementioned observation, CO 134 of 2025 is dismissed.
11. There shall be, however, no order as to costs.

12. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

(Partha Sarathi Sen, J.)