

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

APDT/5/2024
WITH TS/9/2018
IN THE GOODS REKHA DATTA, DECEASED
-AND-
IN THE MATTER OF
RAM KUMAR MAHATO
VS
DIBYENDU SEN

BEFORE:
HON'BLE JUSTICE DEBANGSU BASAK
-A N D-
HON'BLE JUSTICE MD. SHABBAR RASHIDI
DATE: -DECEMBER 04, 2025.

Appearance:
Mr. Sourojit Dasgupta, Adv.
Mr. Ramesh Chandra Paul, Adv.
...for appellant
Mr. Deb Malya Ghosal, Adv.
Mr. Arnab Dutt, Adv.
Mr. Jit Ray, Adv.
...for respondents

The Court:- The appeal is directed against order dated December 12, 2023 passed in TS 9 of 2018.

Learned Advocate appearing for the appellant submits that the evidence of the plaintiff, in a probate proceedings which was directed to be decided as a contentious cause, was closed. He submits that the miscommunication between the erstwhile Advocate on record and the appellant was such that the situation as noted evolved. He submits that an opportunity should be afforded to the appellant to produce the evidence at the Trial.

Respondent is represented. Learned Advocate appearing for the respondents submits that the appellant did not take any steps in the

contentious cause over period of time necessitating the Court to close the evidence of the appellant on October 4, 2023.

We find from the record that a probate proceeding was being tried as a contentious cause.

Plaintiff was required to lead evidence in such contentious cause. Plaintiff was found absent at least on three dates for the purpose of recording the evidence of the plaintiff. It is only thereafter that on October 4, 2023, the learned Trial Judge proceeded to close the evidence of the plaintiff.

No steps were taken by the appellant for recalling the order dated October 4, 2023. Thereafter probate proceeding as a contention cause was taken up for consideration on December 12, 2023. Again on such date, no steps were taken by the appellant as the plaintiff. Consequently, the learned Trial Judge was pleased to dismiss TS 9 of 2018.

In appeal also, no plausible cause is shown as to the conduct of the appellant, before the Trial Judge leading up to October 4, 2023 and thereafter on December 12, 2023.

In such circumstances, we find no merit in the present appeal.

APDT 5 of 2024 is dismissed without any order as to costs.

(DEBANGSU BASAK, J.)

(MD. SHABBAR RASHIDI, J.)