

18.06.2026
Court No. 12
Item No. 09
Sandip

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

F.M.A. 607 of 2026
I.A. No : CAN 1 of 2026

Haripada Mula
Vs.
The State of West Bengal & Ors.

Mr. Samrat Choudhury,
Ms. Anju Sahani,
Mr. Ronit Naskar
.....for the appellant.
Ms. Susmita Saha Dutta, AGP,
Ms. Tanusree Ghosh
....for the State.

- 1) Affidavit-of-service filed in Court is taken on record.
- 2) In spite of service none appears for the State respondents.
- 3) Ms. Susmita Saha Dutta, learned Additional Government Pleader with a junior of her choice has entered appearance at the request of the Court. Their appearance be regularized.
- 4) This is an appeal from an order dated March 19, 2026 passed in CAN 1 of 2024 by the learned single Judge.
- 5) CAN 1 of 2024 is an application for restoration of W.P.A. 13027 of 2019. His Lordship dismissed the restoration application on the ground that the writ petition was dismissed for default on November 20, 2024, but the restoration application was not moved since then. His Lordship held that, the prayer

of the appellants' learned Advocate for leave to file a supplementary affidavit showing cause as to why the writ petition could not be moved when the same was called on, should not be allowed.

6) Admittedly, the restoration application was filed within time. The litigant trusted his learned advocate to take steps. If the advocate failed to take steps between 2024 and 2026, the litigant could not be penalised.

7) Finally, when the learned advocate did not take steps to move the restoration application, the learned advocate was changed. This shows a diligent effort on the part of the litigant.

8) We are of the view that the benefit of doubt should be given to the litigant. Under such circumstances, the order impugned is set aside. The writ petition is restored to its original file and number. The appellant will be at liberty to move the writ petition before the Court having jurisdiction.

9) Accordingly, the appeal and the connected application are disposed of.

10) Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Shampa Sarkar, J.)

(Ajay Kumar Gupta, J.)