

Misc. Case. No. 5240 of 2023
Present: Subhrajit Basu, Judge, Bench-IV
Jo Code: WB01238

Order No. 61
Date: 03.08.2024

The instant case arise out of application under Order 9 Rule 4 of C.P.C for restoration of Misc. Case No. 676 of 2015 which was dismissed for default on 03.09.2022.

The instant application is accompanied by an application under Section 5 of the Limitation Act for condonation delay of 363 days. The said Misc. Case No. 676 of 2015 is in fact in itself an application for restoration of T.S No. 804 of 2013 which was also dismissed for default.

The ground mentioned in the instant application for condonation of delay is that the earlier Ld. Advocate of the petitioner did not takes step in the matter on the date fixed and as such the said case was dismissed for default.

It appears from the record that on earlier occasion also the said Misc. Case was dismissed for default whereupon another Misc. Case was filed which was allowed and the case was restored.

Less said the better about the conduct of the petitioner in this case, but it is primarily duty of the Ld. Advocate who is engaged by the party to take proper steps in the matter and it is extremely unfortunate that due to the fact that no step is taken by the Ld. Advocate, the party has to suffer. To impose cost on the party will increase her already helpless and unfortunate condition.

As such, considering the grounds mentioned in the application under Section 5 of the Limitation Act and the application under Order 9 Rule 4 of C.P.C, the instant Misc. Case is allowed upon condoning the delay.

Misc. Case No.676 of 2015 be restored to its original file and number.

To 20.09.2024 for hearing of Misc. Case No. 676 of 2015.

Sd/-
Judge, Bench-IV
City Civil Court, Calcutta

Sd/-
Judge, Bench-IV
City Civil Court, Calcutta