

M.C. 94/2017
T.A. 236/2014

Order No. 10 dated 19-02-19

Today is fixed for hearing of the petition u/s 5 of the Limitation Act filed by the petitioner/appellant.

Learned Advocate for the petitioner/appellant is present.

Notice in respect of hearing of the petition u/s 5 of the Limitation Act was served upon the Opposite Party/respondent and Opposite Party/respondent appeared in this case 20-02-2018 but she did not take steps from 20-03-2018, for which the instant hearing is fixed for ex-parte.

It appears from the record that the petitioner herself has examined as PW1 and she has stated her grounds of non-taking steps on 15-02-2016 in toto as of the grounds which are brought in her application u/s 5 of the Limitation Act.

It further appears from the examination in chief of PW1 as well as the averments of the petition u/s 5 of the Limitation Act that she had no knowledge about the hearing of the Title Appeal No. 236/2014 and she acquired knowledge about the order of dismissal of the aforesaid Title Appeal after obtaining certified copy of the order on 14-02-2017. The impugned order was passed on 15-02-2016 and the instant Misc. Case was filed on 08-08-2017.

Considering the unchallenged testimony of the PW1 regarding the reasons delaying to file the instant Misc. Case are satisfactory. Therefore, the delaying in filing the instant Misc. Case by the petitioner is entitled to be condoned.

Accordingly, the petition u/s 5 of the Limitation Act filed by the petitioner/appellant is hereby allowed.

The delay in filing the instant Misc. Case is hereby condoned.

The petition u/o 9 Rule 9 read with section 151 of CPC be registered as Misc. Case.

Let the notice be issued upon the Opposite Party/respondent for the hearing of the Misc. Case.

Appellant to file requisites at once.

To 02-04-2019 for S/R.

Dictated & corrected by me

A S J

Judge, Special Court -cum- Additional
District & Sessions Judge, Chinsurah, Hooghly.
19-02-19