

**Order No. 43 dt. 14.01.25**

Today is fixed for passing order.

Both sides have filed hazira before this court.

The record is now taken up for passing order upon the petition dated 30.01.19 filed by the appellant under Order 1 Rule 10(2) of the CPC and the petition dated 10.5.23 filed by the respondent No.1 for part modification of Order dt. 03.01.23.

On careful scanning of the instant record, it appears that the Hon'ble Calcutta High Court in C.O. No. 1108 of 2019 filed in connection with this case has affirmed the order of this court dated 11.3.19 wherein this court had fixed the petition filed by the appellant under Order 1 Rule 10(2) for hearing along with the instant appeal. In such a scenario, it is found necessary to hear the said petition along with the instant appeal. Let this petition be re-heard along with the appeal hearing.

So far as the modification petition filed by the respondent No.1 goes, it is apparent from the said petition that the respondent No. 1 has prayed for partial modification of the order passed by this court in this case being No. 32 dated 03.01.23 to the extent that the respondent No. 1 should be allowed to agitate his petition filed under Order 41 Rule 27 of the CPC but on perusal of the same it is apparent that this court had dismissed the said petition for non-prosecution as none appeared before the court on behalf of respondent No. 1 on the said day. The said order appears to be tenable and no ground has been shown by the respondent No. 1 as to why none appeared on his behalf when the matter was called out. As such, the petition for modification of the said order is without merits and is accordingly dismissed.

To 21.04.2025 for hearing of the appeal and petition under Order 1 Rule 10(2) filed by the appellant.

Dictated & Corrected by

Sd/-

Addl. District Judge, 2<sup>nd</sup> Court  
Serampore

Sd/-

Addl. District Judge, 2<sup>nd</sup> Court  
Serampore

