

Title Appeal No. 05 of 2024
CNR No. WBHW01-000315-2024
Present: Abhijit Som
Sessions Judge, Howrah.
J.O. Code – WB01127

Order No. 15 dated 07.08.2025.

The record is taken up for passing order in connection with an application filed by the appellant under Order 41 Rule 14(4) of the Code of Civil Procedure.

It is submitted by the appellant that the suit was disposed of exparte against the respondent nos.2(a) and 2(b) and therefore, the notice upon them may be dispensed with.

Raising objection against the application, the respondent no.2(c) submits that the dispensing with service of notice of appeal upon the respondents, is only applicable in case of proceeding incidental to an appeal and not the main appeal itself.

However, in view of the Calcutta High Court amendment in Order 41 Rule 14 of CPC, the discretion is with the Appellate Court to make an order, at any stage of the appeal, whether on its own motion or exparte dispensing with service of such notice on any respondents who did not appear, either at the hearing in the Court whose decree is complained of.

So, having considered the submission of both sides, the service of notice upon the respondent nos.2(a) and 2(b) is dispensed with. However, the respondent nos.2(a) and 2(b) are at liberty to contest the appeal at any stage, if appeared.

Call for L.C.R.

Fix 22.09.2025 for L.C.R.

Dictated and Corrected by me.

D. J.

District Judge, Howrah.