

**IN THE COURT OF THE LD. DISTRICT JUDGE, SOUTH 24-PARGANAS, ALIPORE**

**Title Appeal 123 OF 2018**

Present: Sri Rabindranath Samanta, District Judge, South 24-Parganas.

**Order No. 5 Dated 19.02.2019**

The appellant files hazira through its Ld. Lawyer.

The contesting respondent files hazira through his Ld. Lawyer.

The contesting respondent No. 1(b) Kamal Kr. Gopaldass has filed one written objection against the application for condonation of delay. **Let the written objection be accepted and kept with the record.**

Now the application u/Sec.5 of the Limitation Act filed by the appellant is taken up for hearing.

I have heard the Ld. Lawyer for the appellant.

I have heard the Ld. Lawyer for the contesting respondent.

It is stated by the appellant that being aggrieved by an Order dated 07.11.2005 passed by the Ld. Civil Judge (Sr. Divn.) 4<sup>th</sup> Court, Alipore, the respondents preferred a Civil Revision before the Hon'ble High Court at Calcutta in connection with C.O. No.1240 of 2006. But, since 11.12.2009 no date was forwarded in the Cause List of the Ld. Civil Judge (Senior Division) 4<sup>th</sup> Court, Alipore, in connection with Title Suit No. 51/1989.

After obtaining the information from the Ld. Court below the appellant came to know that the suit was already disposed of by the Ld. Court vide Judgement dated 17.03.2017. Thereafter, the appellant after obtaining Certified Copy of the impugned Judgement and Decree preferred the appeal. Under such circumstances, the appellant prays for condonation of delay, if any, in preferring the appeal.

The contesting respondent in his written objection denies the averments as made in the application and seeks dismissal of the application with cost.

Having heard Ld. Lawyers for the parties and bearing in mind the interest of substantial justice, I think that the application for condonation of delay may be allowed on the condition as hereunder:

***The application for condonation of delay is allowed on contest with cost of Rs.1000/- to be paid by the appellant to the contesting respondent No. 1(b).***

I have perused the Certified Copy of the Judgement and Decree passed by the Ld. Civil Judge (Sr. Divn.) 4<sup>th</sup> Court, Alipore in Title Suit No.51/1989.

Considered.

Admit the appeal.

***Let the appeal be transferred to the Ld. Court of Additional District Judge, 1<sup>st</sup> Court, Alipore, for disposal.***

Fix **19.03.2019** for appearance of the parties before the Ld. Transferee Court and payment of cost of Rs.1000/- by the appellant.

The Ld. Transferee Court is at liberty to call for the LCR.

It is made clear that if the appellant fails to pay the aforesaid amount of money to the contesting respondent, the Order as above shall stand vacated and the appeal shall stand dismissed.

*Dictated and corrected by me,*

Sd/- R. N. Samanta  
District Judge

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