

Miscellaneous Case No. 14 of 2021**CNR No. WBUD01-00-1844-2021**Mafijuddin & others Versus Pradhan, 3 Radhikapur GP and othersArising out of Title Appeal No. 04 of 2010)**A proceeding under Order XXI Rule 9 CP Code****Order no. 24****08.07.2026**

1. Today stands fixed for hearing of the instant Miscellaneous Case.
2. At the outset, the contesting opposite parties filed an application seeking adjournment. Subsequently, learned Advocate representing the contesting opposite parties filed hazira and, upon instructions, did not press the prayer for adjournment. Accordingly, the said prayer stands rejected as not pressed.
3. Shri Sujan Kumar Shil, learned Advocate, ably assisted by Shri Rohini Kumar Dutta, learned Advocate-on-record for the petitioners, fairly submits that the petitioners, for reasons best known to themselves, no longer appear desirous of prosecuting the present proceeding.
4. Neither has any of the petitioners chosen to remain present before this Court today, nor has any instruction been imparted to the learned Advocates to proceed with the matter.
5. An application has also been filed by Shri Dutta recording the aforesaid circumstance and praying for appropriate order(s).
6. A bare glance at the record unveils a narrative of extraordinary indifference.
7. The present proceeding seeks setting aside of the abatement of Title Appeal No. 04 of 2010 consequent upon the demise of appellant No. 1, Abdul Majid, on 20.10.2012.
8. Yet, the present application came to be instituted only on 13.08.2021, after an inexplicable and staggering lapse of more than eight and a half years.
9. Such prolonged inertia is wholly incompatible with the diligence expected of a litigant genuinely desirous of preserving his legal remedies.
10. The record further reveals that the *proforma* opposite parties in the present proceeding are none other than the surviving appellants of the original appeal.
11. Instead of joining them as co-petitioners in a common endeavour to revive the appeal, the petitioners chose to implead them as opposite parties requiring issuance of notice.
12. Such an anomalous course unmistakably reflects not merely procedural impropriety but an alarming absence of cohesion amongst the appellants themselves, thereby reinforcing the unmistakable impression that there never existed any earnest intention to prosecute the original appeal with due expedition.
13. The cumulative conduct of the petitioners speaks louder than any explanation that could now be tendered.
14. Their prolonged silence extending over eight and a half years, the avoidable procedural lapses, the absence of meaningful steps for expeditious revival of the appeal, and, finally, their conscious abstention from today's hearing without even instructing their learned Advocates to proceed, together portray a pattern of calculated indifference rather than inadvertence.
15. Litigation cannot be permitted to remain suspended indefinitely at the whimsical pleasure of litigants who invoke the jurisdiction of the Court only to abandon it midway.
16. The process of the Court is not intended to serve as an instrument for keeping disputes in a state of perpetual dormancy or for protracting litigation by calculated inaction.
17. Judicial discretion is an equitable jurisdiction which extends its protection only to those who exhibit vigilance and bona fides. It does not countenance lethargy, acquiesce in unexplained delay, or reward litigants whose conduct manifests an apparent design to keep proceedings alive merely as a

strategic convenience. The conduct displayed by the petitioners throughout the present proceeding unmistakably demonstrates a complete lack of prosecutorial diligence and reflects an intention inconsistent with the orderly administration of justice.

18. In view of the foregoing circumstances, this Court is left with no manner of doubt that the petitioners have unequivocally abandoned their claim and have failed to prosecute the present proceeding despite repeated opportunities.
19. No useful purpose would, therefore, be served by keeping this Miscellaneous Case pending any further.
20. Consequently, the present Miscellaneous Case stands ***dismissed for non-prosecution.***
21. Let the record of the connected Title Appeal be dealt with strictly in accordance with law and a copy of this order be tagged with the record of original Title Appeal no. 04 of 2010.

Dictated & Corrected

Addl. Dist Judge, 1st Court,
Raiganj, Uttar Dinajpur.

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