

Miscellaneous Case No. 16 of 2021**CNR No. WBUD01-00-1846-2021**Abdul LATif & others Versus Pradhan, 3 Radhikapur GP and othersArising out of Title Appeal No. 04 of 2010)**A proceeding under Order XLI Rule 19 CP Code r/w Section 151 CP Code****Order no. 28****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. However, upon filing hazira, learned Advocate appearing for the contesting opposite parties, on instructions, did not press the said prayer. The application for adjournment accordingly stands rejected as not pressed.
3. Shri Sujan Kumar Shil, learned Advocate, assisted by Shri Rohini Kumar Dutta, learned Advocate-on-record for the petitioners, submits that the petitioners are no longer desirous of prosecuting the present proceeding as surprisingly, none of the petitioners has appeared before this Court, nor has any instruction been furnished to their learned Advocates to proceed with the matter.
4. Shri Dutta has also filed an application recording the said position.
5. The record unfolds a chronicle of persistent indifference rather than diligent prosecution.
6. The present proceeding, instituted for restoration of Title Appeal No. 04 of 2010 dismissed for default on 05.02.2020 owing to the appellants' own failure to take necessary steps, was itself instituted only on 13.08.2021 after an unexplained hiatus of more than one and a half years.
7. Such lethargy is wholly inconsistent with the conduct of litigants genuinely intent upon preserving an appellate remedy.
8. The record further reveals that the original appeal had already suffered successive abatements upon the demise of appellant Nos. 2, 1 and 8 on 14.01.2011, 20.10.2012 and 19.07.2017 respectively.
9. The legal representatives instituted Misc. Case Nos. 13, 14 and 15 of 2021 only on 13.08.2021 for setting aside the respective abatements, all of which stand dismissed today for non-prosecution.
10. Even in those proceedings, the present petitioners failed to join the legal representatives of the respective deceased appellants, compelling them to array the present petitioners as *proforma* opposite parties, thereby inviting wholly avoidable delay in effecting service of notices and exhibiting a conspicuous want of procedural diligence.
11. The cumulative conduct of the petitioners admits of only one conclusion. Their repeated defaults, unexplained delays, procedural lapses and ultimate abandonment of the proceeding by remaining absent and withholding instructions from their learned Advocates unmistakably disclose a conscious disregard for the discipline of judicial proceedings.
12. The impression is inescapable that the present proceeding was never prosecuted with the earnestness or bona fides expected of a litigant invoking the equitable jurisdiction of the Court.
13. The process of the Court cannot be reduced to a sanctuary for dormant litigation or held hostage to litigative indifference.
14. Judicial discretion is an equitable relief reserved for vigilant litigants, not for those who repeatedly sleep over their rights and thereafter abandon the proceedings of their own volition.
15. To extend indulgence in such circumstances would amount to placing a premium upon indolence and would erode the discipline essential to the orderly administration of justice.
16. This Court is, therefore, fully satisfied that the petitioners have unequivocally abandoned the present proceeding and have failed to prosecute the same despite ample opportunity. No judicial purpose would be served by permitting the matter to remain pending any further.

17. Accordingly, the present Miscellaneous Case stands **dismissed for non-prosecution**.
18. Pending application(s), if any, stand disposed of accordingly.
19. Let the record of the connected Title Appeal be dealt with in strict conformity with law. A copy of this order shall form an integral part of the record of Title Appeal No. 04 of 2010 and be permanently tagged thereto for future reference and guidance.

Dictated and Corrected by me

Addl. District Judge,
1st Court, Raiganj, U/Dinajpur.

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