

28.03.2025

Ct.No. 24
Sl.No. 16
Amalranjan

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

SA 472 of 1996
With
CAN 2/2005 (Old CAN 539/2005)
With
CAN 4/2012 (Old CAN 10716/2012)
With
CAN 7/2025

Smt. Bharati Sarkar
VS
Sri Madhusudan Goswami

Mr. Debductta Basu

...for the appellant in
CAN 7/2025

Mr. Kashinath Dey
Mr. Abhijit Sarkar

...for the respondent

1. CAN 7/2025, this is an application filed by the respondent for recalling of order of this court dated 14th February, 2025 in respect of CAN 5/2021 and CAN 6/2025.

2. Learned counsel for the respondent submits that he has received the applications being CAN 5/2021 and CAN 6/2025, he used affidavit against CAN 6/2025. But on that day when the matter was fixed for hearing i.e., on 14th February, 2025, this matter (SA 472 of 1996) was not listed, but later on a

supplementary list was prepared and the matter was heard.

3. Learned counsel for the respondent submits that he was not present at the time of hearing. So, he needs necessary order for recalling the order dated 14th February, 2025, so that, he may be given opportunity to place his objection in respect of CAN 5/2021 as well as CAN 6/2025.

4. Learned counsel appearing on behalf of the appellant submits that some aspersion was made against him in CAN 7/2025. The aspersions are false and fictitious.

5. Having heard the learned counsels, it appears that it is true that the Second Appeal being SA 472/1996 was not in the regular list on the referable day, i.e., on 14th February, 2025. It is true that the learned counsel for the appellant was no role to play in listing the instant appeal in the supplementary day's list. Accordingly, aspersion made against the learned counsel for the appellant in CAN 7/2025 appears to be not justified.

6. However, as the respondent was not heard on 14th February, 2025 in respect of his objection regarding CAN 5/2021 as well as CAN 6/2025, I think it is justified to give an opportunity to the respondent to demonstrate his objection. Accordingly, the application being 7/2025 is considered and allowed.

7. The order passed by this court on 14th February, 2025 in respect of CAN 5/2021 and CAN 6/2025 is hereby recalled except the portion of the order regarding recalling the trial court record and directions thereon.

8. Let both the applications being CAN 5/2021 and CAN 6/2025 be listed for hearing in the next week.

(Subhendu Samanta, J.)