

D/L. 51
06.08.2026
Ct No. 2
Mujahid

CO 2713 of 2022

Bagpota Road Bansayi Bazar Samiti
VS
Provash Mukherjee & Ors.

Mr. Subrata Bhattacharjee
Mr. Hirak Kr. Basu

...for the petitioner

Mr. Suprabhat Bhattcharjee
Mr. Durgadas Mukherjee

...for the opposite parties

1. Learned counsels for the parties have filed written notes of argument. Let it be taken on record.

2. Present petition has been filed challenging the impugned order whereby the application filed by the petitioner for restoration of Title Suit No. 368 of 2019 dated 30th July, 2022 was dismissed by the learned Civil Judge (Sr. Division), 7th Court at Alipore.

3. Learned counsel for the petitioner submits that petitioner/plaintiff was pursuing the case diligently and had served the defendant nos. 1 to 6. Learned counsel submits that defendant no.7 was avoiding the service intentionally. Learned counsel submits that the petitioner could not appear only on one day, i.e., 13th March, 2020 and on that day the petition was dismissed for default. Learned counsel

submits that the order of the learned trial court is patently illegal.

4. Learned counsel for the opposite parties has disputed as to the maintainability of the petition and submits that the petitioner had been negligent since beginning.

5. I have heard the submissions and perused the record carefully. The petition was dismissed for default on 13th March, 2020 that record reveals that only that day the petitioner did not appear. The impugned order mentions that the petitioner was in habit of not taking any proper steps, however, the same seems to have not been borne out from the record. The impugned order, therefore, suffers from jurisdictional error.

6. Thus, taking into account and facts and circumstances the petition is allowed. However the opposite party must be compensated with cost and a cost of of Rs.5000/- is imposed upon the petitioner. The Title Suit No. 368 of 2019 is restored to its original number subject to the payment of costs within two weeks to the learned counsel for the opposite parties. The petitioner shall file such receipt before the learned trial court.

7. In view of the discussion made hereinabove, the petition is allowed and disposed of.

8. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Dinesh Kumar Sharma, J.)