

OD-4 & 5

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
ORIGINAL SIDE
IA NO. GA/6/2024
In
CS/172/2009
NESAR AHMED
Vs
SAMIM ARA BEGUM AND & OTHERS
IA NO. GA/7/2024
In
CS/172/2009
NESAR AHMED
Vs
SAMIM ARA BEGUM AND & OTHERS

BEFORE:

The Hon'ble JUSTICE BIVAS PATTANAYAK
Date: 25th November, 2024.

Appearance:
Mr. Tarique Quasimuddin, Adv.
Mr. Zainab Tahur, Adv.
...For the petitioner.

The Court: Affidavit-of-service filed in court today be kept on record.

GA/6/2024 is an application seeking condonation of delay in filing restoration application in CS No. 172 of 2009.

Mr. Tarique Quasimuddin, learned Advocate for the plaintiff/applicant submits that after filing of the suit, the plaintiff became visually impaired due to detachment of retina. The disability certificate issued by the Central Medical Board, Medical College and Hospital would show that the applicant suffered hundred per cent disablement due to blindness. For such reason, the plaintiff/applicant could not prefer application for restoration of the suit within the statutory period. The plaintiff due to such predicament filed the

application through his attorney namely, his son Altaf Ahmed. He seeks condonation of delay of 3785 days in filing the application.

Upon going through the averments as well as on perusal of disability certificate being Annexure P1, it is found that the plaintiff/applicant is suffering from blindness and is diagnosed with retinal detachment. The said disability certificate also records hundred percent disablement.

Considering the above, delay of 3785 days in filing the restoration application stands condoned.

Let there be order in terms of prayer (a) of the notice of motion in GA/6/2024.

The application being GA/6/2024 stands disposed of.

GA/7/2024 is an application for restoration of the suit being CS No. 172 of 2009 by recalling order dated 3rdFebruary, 2014.

Mr. Tarique Quasimuddin, learned Advocate appearing for the plaintiff/applicant submits that on 3rd February, 2014, due to none appearance of the plaintiff, the suit was dismissed for default. The plaintiff/applicant, who has been suffering from blindness since long, could not make representation on the date the matter was called on which has resulted in dismissal of the suit. He seeks for restoration of the suit.

The averments made in the application and the disability certificate shows that the plaintiff is suffering from blindness with retinal detachment. Bearing in mind the aforesaid, this Court is of the opinion that the cause shown is sufficient and thus is inclined to restore the suit.

Accordingly, the order dated 3rd February, 2014 is recalled. The suit being CS/172/2009 is restored to its original file and number.

The application being GA/7/2024 shall stand disposed of.

(BIVAS PATTANAYAK, J.)

R.D Barua