

Appellant Vs. Respondent

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SooperKanoon Citation : sooperkanoon.com/1137170

Court : Kolkata

Decided On : Apr-08-2014

Judge : Nadira Patherya

Appellant : Appellant

Respondent : Respondent

Judgement :

ORDER

SHEET CA NO.211 OF 2014 CP NO.260 OF 2008 IN THE HIGH COURT AT CALCUTTA Original Jurisdiction ORIGINAL SIDE IN THE MATTER OF : BESCO LIMITED AND ROHIT JALAN BEFORE: The Hon'ble JUSTICE PATHERYA Date : 8th April, 2014.

MR.M.GHOSH, MR.V.TIBREWAL,ADVOCATES FOR PETITIONING CREDITOR MR.ANUJ SINGH, MR.S.GHOSH, MR.RAJIB MULLICK, ADVOCATES FOR COMPANY The Court : By this application the petitioner seeks recall of the order dated 18th February, 2014.

The only reason given for recall of this order is that no notice of hearing was served on the company and that the company had lost track of the matter and did not follow it as the matter did not appear for over six yeaRs.This can be no reason for not pursuing the matter.

It is true that the matter may have appeared after a number of years but not to deprive the petitioner of hearing notice was given to it and the petitioner also received such notice.

Courts are helpless if a litigant after receipt of the notice does not appear and cannot wait for the litigant to come to appear at its own sweet will.

This case would have been totally different if the notice had been served on the advocate of the petitioner and the advocate would not have appeared, as laches and default could then have been imputed to the advocate but this is not so in the instant case.

The notice was served on the company itself and non-appearance of the company cannot be covered by the decisions of the Supreme Court and for its laches the company will have to suffer.

Accordingly, the order dated 18th February, 2014 needs no recall and this application is, accordingly, dismissed.

Letter dated 11th February, 2014 be kept on record.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(PATHERYA, J.) sb.

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