

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 8542 OF 2019
(Arising out of SLP (C)No. 34285 of 2017)

SATYABHAMA SAHOO

Appellant(s)

VERSUS

DAKA @ PADMANAVA MAHARATHI & ORS.

Respondent(s)

O R D E R

Leave granted.

We have heard the learned counsel appearing for the parties.

On a bare perusal of the order of the High Court, the reasoning and the conclusion are at variance with each other. Once the High Court concluded that there was no sufficient explanation in the application filed under Order IX Rule 13 of the Code of Civil Procedure to set aside the *ex-parte* decree, the High Court, by an order, unconnected with that aspect of the matter, could not have condoned the delay by observing simply that a Suit of a civil nature could be decided on merits rather than technicalities. The Suit itself was filed in 1997, decreed *ex-parte* on 12.03.2007, application under Order IX Rule 13 was filed by the respondent 3 years and 9 months late. The lower Court has adequately discussed the conduct of the respondent

before disallowing the application to recall the *ex-parte* decree.

We do not find the recall to be sound. The order of the High Court is set aside. The appeal is allowed.

It shall be open for the respondent to move the High Court for return of any deposit that he may have made.

....., J.
[NAVIN SINHA]

....., J.
[KRISHNA MURARI]

New Delhi;
November 13, 2019.

ITEM NO.41

COURT NO.14

SECTION XI-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

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VERSUS

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Date : 13-11-2019 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE NAVIN SINHA
HON'BLE MR. JUSTICE KRISHNA MURARI

For Appellant(s)

Mr. Ashok Panigrahi, AOR
Mr. Anmol Tayal, Adv.
Mr. S. Vinay Ratnakar, Adv.
Mr. Nabab Singh, Adv.

For Respondent(s)

Mr. Suwendu Suvasis Dash, AOR

Mr. Devadatt Kamat, Sr. Adv.
Mr. Javedur Rahman, Adv.
Mr. Aditya Bhat, Adv.
Mr. Ashwin G. Raj, Adv.
Mr. Gautam Talukdar, AOR

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

(NIDHI AHUJA)
COURT MASTER (SH)

(DIPTI KHURANA)
COURT MASTER (NSH)

[Signed order is placed on the file.]