

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO.4364 OF 2010
(Arising out of S.L.P. (C) No.10815 of 2006)

Shyamal Ghosh and Ors.

...Appellant(s)

Versus

Anupama Ghosh and Ors.

...Respondent(s)

O R D E R

Leave granted.

We have heard learned counsel for the parties.

This appeal is directed against the order dated 30th January, 2006, passed by the High Court of Calcutta in C.O. No.4012 of 2005.

The brief facts, which are necessary to dispose of the appeal, are recapitulated as under:

The suit was dismissed in default because of the non-appearance of the counsel. The application for restoration of the same was moved and the Court, after imposing the cost, restored the suit. Against the said order, the respondents preferred a revision petition before the Calcutta High Court. The Calcutta High Court, in its limited jurisdiction, under Section 115 of the Code of Civil Procedure, 1908, has set aside the order by which the Trial Court allowed the application. On consideration of the totality of the facts and circumstances of the case, we are clearly of the view that the High Court ought not to have interfered against the

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order of the Trial Court allowing the application for restoration. Consequently, the impugned judgment is set aside. To avoid the delay in the matter, the parties are directed to appear before the Trial Court on 24th May, 2010. The Trial Court is requested to dispose of the suit as expeditiously as possible.

The civil appeal is, accordingly, allowed.

In the facts and circumstances of the case, we direct the appellants to pay costs to the respondents within four weeks, which is quantified at Rupees ten thousand.

New Delhi,
May 10, 2010.

.....J.
[DALVEER BHANDARI]

.....J.
[ANIL R. DAVE]



JUDGMENT