

IN THE COURT OF DISTRICT JUDGE, PURBA BARDHAMAN

Present: Shri Sujay Sengupta (WB00650),
District Judge, Purba Bardhaman

Title Appeal No.1 of 2017
(CNR –WBBD01-000011-2017)

Tushar Bandopadhyay & Ors. Vs Sristidhar Mondal @ Ghosh & Ors.
Order No. 39, dated 05.10.2023

Appellants file hajira.

Respondent no.1 and respondent nos.7(a) to 7(h) file their
respective hajira.

Today is fixed for hearing on the appellants' application under
Section 5 of the Limitation Act, dated 17.02.2017 praying for condoning
the delay in filing the present appeal.

Learned Advocate for the appellants and Learned Advocate for the
respondent nos.7(a) to &(b) are present.

Heard both sides. Objection raised.

It is submitted that as the decree appealed against was signed till
05.11.2016, the appellants waited for the same and did not apply for
the Certified Copy till 10.11.2026. Thereafter, they applied for the same,
which was made ready on 21.12.2016 on which day, the appellants
obtained the certified copy and on 02.01.2017, this present appeal has
been preferred. Meanwhile, a delay of 66 days has been caused. It is
submitted further that if the date on which the decree was signed is
taken into consideration, then the delay would be of 27days. It is
claimed that such delay is purely unintentional and unless the said
delay is condoned, the appellants will suffer irreparable loss and injury.

Learned Advocate for the respondent nos.7(a) to 7(h) submitted
that the delay may be condoned after imposing some costs.

Perused the impugned judgment and decree passed in Title Suit
No.77 of 1980 whereby the suit has been dismissed on contest without
costs. The suit was for declaration and permanent injunction.

Considering the submissions of both sides and circumstances, I am of the view that the appellants should be given an opportunity to get the appeal heard on merits. Accordingly, the delay is condoned.

It appears that as many as 30(thirty) grounds have been taken in this appeal. There are mixed question of laws and facts. The appeal is admitted.

Call for the L.C.R.

To 20.01.2024 for L.C.R. and hearing of the appeal.

Dictated & corrected by me

Sd/-
District Judge,
Purba Bardhaman

Sd/-
District Judge,
Purba Bardhaman