

In the Court of the District Judge, Dakshin Dinajpur at Balurghat
Title Appeal No.16/2023 (Computer Registration No.16/2023)
CNR No.WBDD01-002020-2023.

Present :- Shri Subhayu Banerjee (J.O Code No.WB 01275)

Order No.05.
22.01.2024.

Today is the date fixed for passing of order in respect of the application filed u/s 5 of Limitation Act.

Hazira is filed on behalf of the party/parties.

The record of the instant case is taken up for passing of order.

During the course of the argument in respect of the application u/s 5 of the Limitation Act, cryptic submission was made on behalf of the Appellant. It was his specific submission that the said appeal has been filed after a delay of about 25 days. The primary reason behind the same is that due to illness, the appellant was unable to contact the lawyer's clerk who was entrusted to take out a certified copy of the impugned judgment and decree. Hence, the delay in filing the appeal. He prayed for condonation of a delay of 25 days in preferring the appeal.

The Ld. Advocate for the respondents opposed such prayer for condoning the delay in preferring the instant appeal. It was his specific submission that the appellant did not annex any document to substantiate the illness, and, hence, such conduct does not merit condonation.

Perused the petition filed u/s 5 of the Limitation Act, and considered the submission of both the parties.

In the instant case, there is a delay in preferring the application for condonation of delay of 25 days. The reasons as shown in the petition appear to this Court to be bona-fide. The total duration of delay does not appear to be of substantial duration. It is a settled law that while dealing with petition praying for condonation of delay in filing the appeal, a lenient view must be taken. In the instant case, the delay is only to the extent of 25 days. Consideration all the factors taken in its entirety, the period of delay in preferring the instant appeal to the extent of 25 days is hereby allowed.

The appeal is hereby admitted.

A petition under Order 41 Rule 27 has been filed in this Court. Let the same be fixed for hearing on 16.03.2024. WO in respect of such petition in the meantime.

Fix **16.03.2024** for hearing.

Dictated & corrected by me

District Judge,
Dakshin Dinajpur.

District Judge,
Dakshin Dinajpur.