

Title Appeal – 37/2025

(C.N.R:- WBHG05-000863-2025)

Present: NAYYAR AZAM KHAN

ADDITIONAL DISTRICT & SESSIONS JUDGE, FIRST COURT,

SERAMPORE, HOOGHLY

(IN-CHARGE)

(J.O. Code - WB01302)

Order No. 06 dt. 06.9.2025

Today is fixed for passing order upon the hearing of the petition filed by the appellant dtd. 16.5.2025 concluded on the last date.

Both sides are present before this court and have filed hazira.

The record is now taken up for passing order upon the said hearing.

Ld Advocate for the Appellant at the time of hearing had submitted that the impugned order was passed by the Court of Civil Judge (Jr. Divn.) 1st Court, Serampore on 18.02.25 in Misc Case No. 56/2019 arising out of Title Execution No. 10/2013 against which the present appeal should have been filed by the Appellant on or before 17.3.25 but that the same was filed after a delay of about 56 days on 16.5.25 which delay was due to the fact that the Appellant had wrongly filed a Misc Appeal within time against the said impugned order on 28.02.25 which was subsequently dismissed on 13.5.25 after which fresh appeal was filed before this court. Ld Advocate for the Appellant prayed for condoning the said delay as under sec. 5 of the Limitation Act.

Ld Advocate for the Respondent strongly opposed the condonation prayer of the appellant
Heard both the sides.

Perused the petition and instant record. Considered.

It appears from the submission of the Ld Advocate for the Appellant that there is no intentional laches on the part of the Appellant in the delay caused in preferring this appeal and that the said delay appears to be beyond the control of the Appellant as the appellant was depending upon his Ld Advocate who had filed an appeal under an incorrect provision of law and was agitating the same before another forum and that the present appeal was finally filed before this forum after dismissal of the former appeal. However, considering that the respondent has suffered inconvenience and has not been able to enjoy the fruits of his decree as a decree holder in the Ld trial court, the instant condonation prayer is allowed with costs of Rs. 5000/- (rupees five thousand) which must be paid by the appellant to the respondent on or before the next date as a pre-requisite of admission of this appeal.

To 22.09.2025 for filing of receipt of cost by the Appellant and further order.

Dictated & Corrected by me,

SD/- Nayyar Azam Khan.
Addl. District Judge, 1st Court,
Serampore

SD/- Nayyar Azam Khan.
Addl. District Judge, 1st Court,
Serampore.