

In the Court of District Judge, South 24-Parganas

Misc. Appeal No. 130 of 2022

Present : Sri Abhijit Som (WB01127) District Judge,

South 24 Parganas at Alipore

Order No. 15, dated 17.10.2023

The application under section 5 of the Limitation Act is taken up for hearing.

Hazira is filed on behalf of the both sides.

Heard the Ld. Advocate for both sides.

As per office note, the instant appeal is filed after a delay of 9 (nine) days.

In view of the decision of Hon'ble Supreme Court, ***Collector Land Acquisition V. Mst. Katiji & Ors. AIR 1987 Supreme Court 1353***, the legislature has conferred the power to condone delay by enacting Section 5 of Indian Limitation Act of 1963 in order to enable Courts to do substantial justice to parties by disposing of matters on 'merits'. The expression "sufficient cause" employed by the legislature is adequately elastic to enable the Courts to apply the law in a meaningful manner which subserves the ends of justice. "Every day's delay must be explained" does not mean that a pedantic approach should be made. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. In view of the above observation of the Hon'ble Supreme Court, this Court in consideration of justice oriented approach is of the view that delay in preferring the instant Miscellaneous Appeal may be condoned having being satisfied with the reasons stated in the petition.

In view of the above, the delay in preferring the appeal is condoned.

Let the appeal be admitted.

Since the respondents have appeared in this case, the instant Misc. Appeal may be taken up for hearing.

Fix **14.12.2023** for hearing of the Misc. Appeal.

Dictated & corrected by me

Sd/- Sri Abhijit Som

District Judge

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