

SL. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
	<u>07.05.2026</u>		<p>FA No.52 of 2023</p> <p><b><u>Hon'ble Siddhartha Sah, J.</u></b></p> <p>Mr. Rajendra Singh Azad, Advocate for the appellants through video conferencing.</p> <p>Mr. I.P. Kohli, Brief Holder for the State.</p> <p>Mr. Manoj Kumar, Standing Counsel for the Union of India.</p> <p>There is delay of 802 days. The delay condonation application has been filed seeking to condone the delay of 802 days in preferring the Recall Application. The reasons for the delay has been stated in the affidavit in support of delay condonation application as follows:-</p> <p>“It is also pertinent to mention here that as per information given by their counsel Mohd. Safdar, the registry has raised certain defects in first appeal preferred by the appellants i.e. valuation of the appeal not mentioned and court fees has not been paid in the first appeal preferred by the appellants but due to unavoidable reasons, the appellants have failed to remove the defects raised by the registry and at last this Hon'ble Court has please to pass an order dated 10-10-2023 giving further four weeks time to the appellants to remove the defects, failing which this appeal shall stand dismissed without reference to the Bench. But the appellants have failed to remove the defects as directed by this Hon'ble Court vide order dated 10-10-2023 and as such this first appeal has been dismissed on 29-11-2023 without reference to the Hon'ble Court.</p> <p>It is also pertinent to mention here that the appellants are simple living farmers and they were not in position to pay court fees at first instance and the appellants have come to know about the dismissal of this appeal from their counsel Mohd. Safdar on 01-02-2026 when they asked about the status of the case.</p> <p>It is also pertinent to mention here that the applicants/appellants are moving this recall application for recalling the order dated 10-10-2023 immediately after knowing the dismissal of this first appeal from their counsel on 01-02-2026 as stated above and there is no deliberate or intentional delay in filing the recall</p>

application and due to reason as stated above the aforesaid case has been dismissed 29-11-2023 by the Registrar (Judicial) without reference to this Hon'ble Court as per the direction vide order dated 10-10-2023 and there was neither deliberate or intentional default of their counsel nor of the applicants/appellants.”

The learned counsel for the respondent does not oppose the delay condonation application.

The office note dated 01.04.2026 states that the defect has been removed.

The court fee has been tendered. Since the present appeal was dismissed by virtue of order dated 10.10.2023 on the premise that court fee is not being paid and the dismissal was to be made without reference to the Court. Since the court fee was not tendered within time, the appeal was dismissed without reference to the Court.

In view of the reasons disclosed in the affidavit in support of the delay condonation application, the reason is found to be sufficient. The delay in filing the recall application is condoned. The Recall Application will be treated to be within time.

### **MCC No.1 of 2026**

Since the defect of the court fee has been removed, the appropriate court fee has been tendered and the office note states that the defect has been removed on 01.04.2026. Since the appeal was dismissed on account of non tendering of the court fee and the court fee has been tendered, hence the order dated 10.10.2023 is hereby recalled. The appeal is restored to its original number.

Since it is a regular first appeal, admit.

Summon the Trial Court Record.

List for further consideration on 10.07.2026.

**(Siddhartha Sah, J.)**

07.05.2026