

Item- 10. 19-09-2025

sg Ct. 16

**FAT 71 of 2024
CAN 1 of 2025
CAN 2 of 2025**

Abdul Megid Kha & Ors.
Versus
Md. Tabarak Hossain Mondal & Ors.

Mr. Bratin Kumar Dey
Ms. Anjana Banerjee
Mr. Subhankar Banerjee
...for the appellants

In Re: CAN 2 of 2025

1. Affidavit of service filed in Court is taken on record. In spite of notice, the respondents are not represented.
2. This is an application for condonation of delay. There is a delay of 91 days in preferring the memorandum of appeal.
3. The plaintiffs are not represented. On the earlier occasion, the respondent nos. 1, 2 and 3 were represented by their learned Counsel and on the prayer of the learned Counsel for the respondent nos. 1, 2 and 3, the matter was adjourned till 11th August, 2025.
4. We are satisfied with the explanation offered for not being able to file the present appeal within the time stipulated and we condone the delay of 91 days in preferring the memorandum of appeal.
5. CAN 2 of 2025 is, accordingly, disposed of.

In Re: CAN 1 of 2025

6. The present appellants are the contesting defendant nos. 10, 11 and 13. The learned Counsel for the appellants has

submitted that the description of the property in respect of the plot no. 1090/1555 has been misconstrued and misinterpreted by the learned Trial Judge in decreeing the suit in favour of the plaintiffs.

7. A Partition Commissioner has been appointed. We do not want to disturb the final decree proceeding. The decree was passed on 28th June, 2023 and this appeal was filed after the statutory period was over with an application for condonation of delay.
8. The final decree proceeding may continue, however, no final decree shall be passed without the leave of this Court.
9. CAN 1 of 2025 is, accordingly, disposed of.

In Re: FAT 71 of 2024

10. The appellants are directed to file requisite number informal paper books incorporating all the papers used before the trial court – printed, typewritten or cyclostyled with proper index – as the case may be, out of Court on or before 15th November, 2025.
11. In view of the fact that Mr. Sankar Paul, learned Counsel has entered appearance, serve of notice of appeal shall be served upon the respondent nos. 1, 2 and 3.
12. Insofar as the other respondents are concerned, it appears from the preliminary decree that save and except the defendants nos. 10, 11, 13 who are the present appellants, other defendants did not contest the suit as well as there is no requirement to effect any fresh service of notice of appeal upon the said defendants.

13. All other formalities in preparation and filing of the paper books are dispensed with.
14. The direction with regard to filing of paper book is peremptory, in default, put up this matter for final order.
15. This order shall be immediately communicated to Mr. Sankar Paul, Advocate, who had entered appearance on behalf of the respondent nos. 1, 2 and 3.
16. The appellant shall deposit the requisite and postal cost for effecting service of notice of appeal upon the respondent nos. 1, 2 and 3 within one week from date.
17. Liberty to mention after the appeal becomes ready.

(Soumen Sen, J.)

(Biswaroop Chowdhury, J.)