

D/L.44.
February 3, 2026.
MNS.

FAT No. 237 of 2025
+
CAN 1 of 2025
+
CAN 2 of 2025

Sri Paritosh Mondal
Vs.
Anita Mondal and others

Mr. Abhishek Baran Das,
Ms. Triparna Sarkar

... for the appellant.

Re: CAN 1 of 2025 (condonation)

1. The affidavit-of-service filed today in Court be kept on record.
2. From the affidavit-of-service, we find that the postal articles were unclaimed despite attempt to serve at the addresses in terms of the trial court decree.
3. Accordingly, we deem the service to have been effected on the respondents and take up the applications for hearing.
4. From the averments made in the application, we are satisfied that sufficient explanation for the delay has been given.
5. Accordingly, CAN 1 of 2025 is allowed, thereby condoning the delay in preferring FAT No. 237 of 2025.
6. There will be no order as to costs.
7. The said appeal is deemed to stand registered and admitted.

Re: CAN 2 of 2025 (interim order)

8. The present appeal has been filed by the plaintiff in a suit for eviction under the Transfer of Property Act, 1882 and for *mesne* profits.

9. Whereas the learned trial Judge passed a decree of eviction, the *mesne* profits component of the decree was refused, against which the appeal has been preferred.

10. By the present application, bearing CAN 2 of 2025, the appellant seeks the appointment of a Commissioner for the purpose of causing an enquiry regarding *mesne* profits of the suit property since September 16, 2002 till the delivery of possession.

11. However, granting such relief would tantamount to allowing the appeal before hearing it finally.

12. Accordingly, CAN 2 of 2025 shall be heard along with the appeal as and when the matter is ready for hearing.

13. The appellant shall put in due requisites, postal costs and written up notice form, for service of notice of the appeal on the respondents, within a week from date.

14. The trial court records shall be brought by special messenger at the cost of the appellant, also to be deposited within a week.

15. The appellant shall prepare and file the requisite number of paper books within eight weeks from the date of service of notice of arrival of the trial court records on the learned Advocate for the appellant.

16. Liberty to the parties to mention the matter for inclusion in the list as and when the same is made ready for hearing.

(Supratim Bhattacharya, J.) (Sabyasachi Bhattacharyya, J.)