

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

SAT 107 of 2021
with
IA No. CAN 1 of 2021
with
CAN 3 of 2024

Md. Ruhul Haque
Vs.
Swapna Pramanik @ Swapan Pramanik & Ors.

Ms. Suchitra Saha
Mr. Chowdhury Faruk Ali
Ms. Priyanka Das
Ms. Sharmila Basu
... For the appellant

1. Affidavit of service is filed and taken on record.
2. Perusing the same, it appears that the respondents refused to accept the notice.

In re: CAN 1 of 2021

3. Learned counsel appearing on behalf of the appellant submits that delay in filing the appeal has been explained, particularly, in paragraphs 9, 11, 12 and 17 of the instant application.
4. It has been submitted that the law clerk was entrusted with the work of obtaining certified copy of the judgment and decree but due to pandemic of Covid-19, he expired and for that reason the appeal was filed after 657 days from the day of expiry of the period of limitation.

5. I have gone through the reasons assigned in paragraphs 9, 11, 12 and 17 and it is found satisfactory.

6. Having regard to the above, the prayer for condonation of delay within the meaning of Section 5 of the Limitation Act stands allowed.

7. CAN 1 of 2021 is, accordingly, disposed of.

In re: CAN 3 of 2024

8. None appears on behalf of the respondents.

9. Learned counsel appearing on behalf of the appellant has submitted that the death of the respondent no.3 came to the knowledge of the appellant only when the postal receipt in respect of CAN 1 of 2021 returned with the endorsement “deceased” and in the meantime period of limitation exhausted.

10. Having heard the learned counsel appearing on behalf of the appellant as well as having gone through the explanation depicted in the application, particularly, in paragraphs 4, 7 and 10, the prayer for substitution after setting aside abatement stands allowed.

11. CAN 3 of 2024 is, accordingly, disposed of.

12. Department is directed to make necessary correction in the Memorandum of Appeal.

13. Appellant is also at liberty to make necessary correction in the cause title of the instant application, being CAN 3 of 2024.

14. All parties shall act on the basis of a server copy of this order duly downloaded from the official website of this Court.

15. Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of necessary formalities.

(Bibhas Ranjan De, J.)