

22.06.2026
Court No. 12
Item No. 14
Sandip

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

M.A.T. 1315 of 2025
I.A. No : CAN 2 of 2025
CAN 3 of 2025
CAN 4 of 2025
CAN 5 of 2025
In
W.P.A. 9587 of 2008

Smt. Susmita Roy & Ors.
-Versus-
The State of West Bengal & Ors.

Mr. Debasish Chattopadhyay,
Mr. Tirthankar Basu
.....for the appellants.

Ms. Susmita Saha Dutta, AGP,
Ms. Tanusree Ghosh
....for the State.

- 1) CAN 3 of 2025 is an application for condonation of delay of 309 days in filing the appeal.
- 2) We are satisfied with the explanation for delay in filing the appeal.
- 3) The heirs and legal representatives of the deceased writ petitioner no. 1 has preferred this appeal with a prayer for leave. They were not parties to the writ proceeding. Under such circumstances, the delay is condoned. The special leave to appeal is regularized.
- 4) CAN 5 of 2025 is application for leave to appeal.

5) We find that the heirs and legal representatives of the deceased writ petitioner no 1 has filed the appeal. According to them the writ petition was dismissed on merits in respect of a dead person, during the pendency of a substitution application, an application for setting aside abatement upon condonation of delay as also an application for restoration of the writ petition.

6) Under such circumstances, the application is allowed.

MAT 1315 of 2025

7) We are told that the writ petitioner no. 1 had expired and an application for substitution of the heirs and legal representatives of the said writ petitioner no. 1 was pending before the learned writ Court along with an application for setting aside abatement upon condonation of delay. The writ petition was also dismissed for default and a restoration application was pending.

8) Under such circumstances, there appears to be an error in disposing of the writ petition on merits, as there was no appeal in the eye of law.

9) It also appears that the writ petition was dismissed for default and the restoration application was never moved.

10) In view of all these errors and procedural irregularities in the disposal of the writ petition on merits, we set aside the order impugned, granting liberty to the appellants to take

appropriate steps in accordance with law before the learned single Judge for regularization of the writ petition.

- 11) The disposal of all the CANs are set aside.
- 12) The applications revive.

(Shampa Sarkar, J.)

(Ajay Kumar Gupta, J.)