

M/L.11.
February 2, 2026.
MNS.

FMAT No. 315 of 2024
+
CAN 1 of 2024
+
CAN 2 of 2024

Alok Chatterjee
Vs.
Dipak Kumar Gorgari @ Dipu

Mr. Partha Pratim Roy,
Ms. Ritoprita Ghosh

... for the appellant.

Re : CAN 1 of 2024 (condonation)

1. Despite service, none appears for the respondent at the time of call.
2. The affidavit-of-service filed in Court today be kept on record.
3. Upon a perusal of the condonation application, we find that sufficient reasons have been made out for the delay in preferring the appeal, inasmuch as the appellant as well as the then learned Advocate for the appellant had suffered from ailments during the relevant period.
4. Accordingly, CAN 1 of 2024 is allowed, thereby condoning the delay in preferring FMAT No. 315 of 2024.
5. There will be no order as to costs.

Re: FMAT No. 315 of 2024.

6. The present appeal arises out of the dismissal of an application for condonation of delay in filing an application

under Order IX Rule 13 of the Code of Civil Procedure by the present appellant, consequentially dismissing the latter application, bearing Miscellaneous Case No. 7 of 2019, as well.

7. Learned counsel for the appellant argues that the learned trial Judge, despite having held that the petitioner/plaintiff's case was corroborated by two witnesses, went on to disbelieve the same on the basis oral evidence of the respondent's witnesses, without properly appreciating the evidence in its totality.

8. That apart, it is argued that the insistence of the learned trial Judge on the production of documentary evidence regarding talks of settlement going on between the parties was misplaced, since in view of the case made out by the petitioner, there was no scope of any written document being produced.

9. We find that a sufficiently strong *prima facie* case for hearing the appeal on merits is made out.

10. Accordingly, FMAT No. 315 of 2024 is admitted, to be heard on the grounds indicated above and the other grounds taken in the memorandum of the appeal.

Re: CAN 2 of 2024 (stay application)

11. There shall be stay of Money Execution Case No. 51 of 2016, pending before the court of Learned Civil Judge (Senior Division) at Serampore, District- Hooghly, till March 31, 2026 or until further order, whichever is earlier, subject

to further conditions being imposed for such stay at the hearing of the application.

12. The appellant shall serve a copy of CAN 2 of 2024 along with a copy of the memorandum of appeal on the respondent, indicating that the application shall next be listed for hearing in the monthly list of March, 2026.

13. The appellant shall file an affidavit-of-service to that effect on the returnable date.

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