

AD-44  
Ct No.16  
07.05.2026  
(SSS)

FAT 519 of 2025  
with  
CAN 1 of 2025  
with  
CAN 2 of 2025  
with  
CAN 3 of 2026

Sri Madanmohan Das and Ors.  
Vs.  
Sri Shyamal Kumar Das and Ors.

Mr. Amit Baran Dash,  
Mr. Arka Bhattacharya,  
Ms. Ankana Sarkar

....For the appellants.

1. Learned counsel for the appellants submits on instruction that due to communication gap, on March 18, 2026 he had submitted that the respondent no. 5 has died, whereas it is the respondent no. 6 who has died and the name of the said respondent was already expunged from the records in the Trial Court. Thus, service has been effected on all the surviving respondents. Accordingly, we take up the application for hearing.

2. Since sufficient explanation for the delay has been made out, CAN 2 of 2025 is allowed, thereby condoning the delay in preferring FAT 519 of 2025. There will be no order as to costs.

3. The present appeal has been preferred against a preliminary decree of partition. In view of a *prima facie* case having been made out, the appeal is required to be heard on merits.

4. The learned Trial Judge shall continue with the final decree proceedings but shall not draw up any final decree without prior leave of this Court during pendency of the appeal. CAN 1 of 2025 is disposed of in the light of the above observations.

5. The trial Court records shall be brought by special messenger at the cost of the appellants, to be deposited within a fortnight from date.

6. It is made clear that the Trial Court may retain a skeletal copy of the records for the purpose of continuing with the final decree proceedings.

7. The appellants shall put in postal costs and other requisites for service of notice of the appeal on the respondents, also within a fortnight from date, and prepare 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 appellants.

8. Liberty to the parties to mention the appeal for enlistment as and when the same is ready for hearing.

(Sabyasachi Bhattacharyya, J.)

(Biswaroop Chowdhury, J.)