

D/L.21.
July 7, 2026.
MNS.

FMAT No. 485 of 2025
+
CAN 1 of 2025
+
CAN 2 of 2025

Mrs. Maya Thakkar and another
Vs.
Smt. Varsha Jobanputra and others

Mr. Partha Pratim Roy,
Mr. Avra Mazumder,
Mr. Kausheyo Roy,
Ms. Mahashree Ghosh, Advs.

... for the appellants.

Mr. Meghnad Dutta,
Mr. Abhishek Shaw, Adv.

...for the respondent nos. 1 and 2.

Re: CAN 1 of 2025 (condonation of delay)

1. At the time of call, an adjournment is sought on behalf of the contesting respondent nos. 1 and 2 to file affidavit-in-opposition.
2. However, since we had directed affidavits to be filed in connection with the application as long back as on April 6, 2026, such prayer is refused and we proceed to hear the condonation application on the basis of the averments made in the said application and the connected supplementary affidavit.
3. The reason for the delay of about seventy-nine days in filing the appeal, as per the appellants, is primarily that the appellant no. 1 is a septuagenarian and resides in Mumbai. Although the appellants had taken steps for

preferring the appeal, due to inadvertence, the certified copy of the impugned judgment was not applied for initially. Subsequently, upon coming to know of the same, the certified copy was collected and the instant appeal was preferred.

4. It is also stated in the supplementary affidavit that the Annual Vacation of this Court in the year 2025 intervened in the meantime.
5. Upon hearing learned counsel for the parties and keeping in view the circumstances under which the delay occurred, we are of the opinion that sufficient explanation has been furnished for condonation of the delay.
6. Accordingly, CAN 1 of 2025 is allowed on contest, thereby condoning the delay in preferring FMAT No. 485 of 2025.
7. There will be no order as to costs.

Re: FMAT No. 485 of 2025.

8. The present appeal has been preferred against an order whereby injunction was granted at the behest of the two objectors to a probate application filed by the appellants who, according to the appellants, do not have any caveatable interest in the property, being the sisters of the deceased testator and not coming within the purview of Class-1 heirs.
9. Accordingly, the appellants did not initially implead them as parties, but the said sisters appeared of their

own in the probate proceeding and filed an injunction application, upon which the impugned order was passed, not only granting injunction but appointing learned Advocates as Administrators *pendente lite*.

10. Learned counsel for the appellants argues that apart from the learned trial Judge have not satisfactorily decided the question of *locus standi* and caveatable interest of the respondent nos. 1 and 2, the appointment of two Advocates as Administrators *pendente lite* was beyond jurisdiction and without any reasonable basis.

11. Thus, it transpires that sufficiently arguable questions have been raised in the appeal.

12. Accordingly, the appeal is admitted and shall be heard on the grounds indicated above and those taken in the memorandum of appeal.

13. Learned counsel appearing for the contesting respondent nos. 1 and 2 argues *inter alia* that apart from the fact that the appellants have not assailed the order whereby the respondent nos. 1 and 2 were impleaded as parties to the probate proceeding, the appellants have participated in the proceeding even after the appointment of Administrators *pendente lite*.

14. Thus, it is submitted that the appellants are debarred from challenging the impugned order and/or questioning the *locus standi* and/or caveatable interest of respondent nos. 1 and 2.

15. Learned counsel for the appellants controverts such arguments of the respondent nos. 1 and 2.

16. Since questions of fact as well as law are raised by the contesting respondents, the said respondents, that is, the respondent nos. 1 and 2, are directed to file their affidavit-in-opposition to CAN 2 of 2025 within three weeks from date.

17. Affidavit-in-reply thereto, if any, shall be filed within a week thereafter.

18. The application shall next be listed for hearing on August 11, 2026.

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