

16     14.03.  
2024  
Ct. No. 04

ab

**SAT 241 of 2023**  
**IA No. CAN 1 of 2023**  
**IA NO. CAN 2 of 2023**

**Smt. Sayantani Maji and another**  
**Vs.**  
**Sri Swadip Das and others**

-----

**Mr. Sourav Sen,**  
**Mr. Arunava Maity.**

**... for the appellants.**

The appeal shall be heard on the following substantial questions of law:

- (1) Whether the Court of Appeal below was justified in entering into the merit of the appeal at the stage of considering an application for condonation of delay filed under Section 5 of the Limitation Act?**
- (2) Whether the Court of Appeal below was justified in holding that the appellants have not been able to make out a sufficient cause occasioning the delay in preferring the said appeal and thereby taking a pedantic and strict approach?**
- (3) Whether the Court of Appeal below was justified in arriving at the conclusion that the application under Section 5 of the Limitation Act is not maintainable when an appeal is preferred under Section 96 of the Code of Civil Procedure?**

Let hearing of the appeal be expedited.

The appellants are, therefore, directed to put in the requisites, namely, postal costs, written up notice forms and correct postal address of the respondents for effecting service of notice of appeal by registered post with acknowledgement due within a week from date. In

default, put up for final orders.

The office is directed to effect service upon the respondents immediately and upon completion of service shall put a note that the appeal is ready as regards service.

Let the Lower Court's Records be called for through the Special Messenger at the cost of the appellants. Such cost shall be put in within a week from date.

Immediately, after arrival of the Lower Court's Records, office shall examine the same and if found complete, shall issue notice of arrival of Lower Court's Records on the Advocate-on-Record of the appellants under Rule 12 of Chapter IX of the Appellate Side Rules.

The appellants are directed to prepare and file eight copies of informal paper books – printed, typewritten or cyclostyled, as the case may be – out of court, within a period of four weeks from date.

All other formalities regarding preparation of paper books are dispensed with.

After fulfillment of all other formalities, the office shall put a certificate that the appeal is otherwise ready for hearing and liberty is given to the parties to pray for early disposal of the appeal.

**Re: CAN 1 of 2023 and CAN 2 of 2023**

The appellants are directed to serve the copy of the instant applications upon the respondents by speed post and shall file affidavit of service on the returnable date.

The applications are made returnable after two weeks before the appropriate Bench.

**(Harish Tandon, J.)**

**(Partha Sarathi Sen, J.)**

