

JPD-21
Ct No.01
23.07.2025
AK

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Jurisdiction

FAT 15 of 2025
IA No: CAN 1 of 2025
CAN 2 of 2025

Chhoraf Mia @ Chhorab Mia @ Md. Soraf Miah
Vs
Sahidul Mia and others

Mr. Hillol Saha Podder

...for the appellant.

Mr. Surojit Basu
Mr. Puspen Barman
Mr. Sayantan Bhowmik

...for the respondents.

In re: CAN 2 of 2025

- 1.** Heard learned counsel for the parties.
- 2.** Learned counsel for the respondents points out that no proof of the illness of the appellant, which is a ground pleaded for condonation of delay, has been furnished.
- 3.** However, we find from the application that apart from the illness having been stated on oath, the appellant has taken a plea that there was some delay in gathering and arranging the necessary documents and papers for the purpose of preparing the appeal and getting the same filed.

4. Upon a consideration of the averments and hearing learned counsel, we are of the opinion that sufficient explanation for the delay has been furnished.
5. Accordingly, CAN 2 of 2025 is allowed, thereby condoning the delay in preferring FAT 15 of 2025.
6. The appeal is deemed to stand registered and admitted accordingly.

In re: CAN 1 of 2025

7. CAN 1 of 2025 is an application for stay.
8. The appeal arises in connection with a preliminary decree of partition.
9. We are of the opinion that in the event any final decree is drawn up in the meantime, the appeal will be rendered infructuous.
10. Accordingly, CAN 1 of 2025 is disposed of by directing the learned Trial Judge to continue with the final decree proceedings; however, no final decree shall be drawn up during pendency of the present appeal without the prior leave of this Court.
11. For the purpose of the present applications, we deem it unnecessary to direct service of notice on the proforma respondents.
12. In view of the appearance of the plaintiff/respondent no.1 through his learned Advocate, service of notice of the appeal is dispensed with insofar as the respondent no.1 is concerned.

- 13.** The appellant shall put in due requisites and postal costs for service of notice of the appeal on the proforma respondent nos. 2 to 12 within a week from date.
- 14.** The Trial Court Records shall be brought by Special Messenger at the cost of the appellant, also to be deposited within a week.
- 15.** The Trial Court shall, however, for the limited purpose of proceeding with the final decree proceedings, retain a skeletal record of the matter.
- 16.** The appellant shall prepare and file the requisite number of paper books within 8 weeks from the date of service of notice of arrival of the Trial Court Records on the learned advocate for the appellant.
- 17.** Liberty is given to the parties to mention the appeal inclusion in the list as and when the same is ready for hearing.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)