

08.03.2021
SL No.23
Court No.12
(gc)

**FMAT 262 of 2020
With
CAN 1 of 2020
(Old No: CAN 2406 of 2020)
With
CAN 2 of 2021**

**Madhusudan Chakraborty & Anr.
Vs.
Dev Sahitya Kutir Pvt. Ltd.**

(Via Video Conference)

Mr. Shyam Baran Chakraborty,
Mr. Bimlesh Jain,
Mr. Purnendu Das,
...for the Appellants.
Mr. Siddhartha Banerjee,
Ms. Soni Ojha,
Ms. S. B. Chatterjee,
...for the Respondent.

Re: CAN 1 of 2020 (Old No: CAN 2406 of 2020)

This is an application for condonation of delay in presenting the memorandum of appeal. There is a delay of 121 days in presenting the memorandum of appeal. We have gone through the application for condonation of delay and we are of the view that sufficient cause exists for not being able to present the memorandum of appeal within the statutory period of limitation.

On such consideration, the prayer for condonation of delay of 121 days in presenting the memorandum of appeal is allowed.

CAN 1 of 2020 (Old No: CAN 2406 of 2020) is disposed of.

Re: FMAT 262 of 2020
With
CAN 2 of 2021

In view of a clear recital in the deed of sale executed by the predecessors-in-interest of the present appellants clearly stating that the suit property is fully occupied by an unauthorized occupant, namely, the defendant. We feel that the learned Single Judge was absolutely right in disposing of the injunction application by restraining the defendants from disturbing the peaceful enjoyment and running of the business of the plaintiff and not to dispossess the plaintiff from the suit property without due process of law. These observations are prima facie and shall not influence the trial.

We have been informed that the pleadings are complete. In view thereof we dispose of the appeal and the stay application by directing the learned Judge, 10th Bench, City Civil Court to pass peremptory directions in order to make the said suit ready for hearing and dispose of the suit as expeditiously as possible without granting any unnecessary adjournment to either of the parties.

The plaintiff has submitted that the deficit court-fees have been put in on 28th February, 2020 vide No.04/02/2021-A-1856.

The Stamp Report shall prepare a revised report.

Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Subhasis Dasgupta, J.)

(Soumen Sen, J.)