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18-11-2021

Ct. 8

FMAT 973 of 2015
With
CAN 1 of 2015 (old CAN 9658 of 2015)
With
CAN 2 of 2015 (old CAN 9659 of 2015)

Bhagwati Prasad Jaiswal
Versus
Seema Jaiswal & Anr.

(Through Video Conference)

Due to disclosure of sufficient particulars, we directed the appellant to file an application for condonation of delay. However, record reveals that an application for condonation of delay was filed by the appellant on 4th September, 2015. The appellant is not represented nor any accommodation is prayed for. Other defects are minor in nature.

We are satisfied with the explanation offered for not being able to present the memorandum of appeal within the period of limitation. Accordingly, we allow this application for condonation of delay, being CAN 1 of 2015 (old CAN 9658 of 2015).

In so far as the impugned order is concerned, we find that the injunction petition was directed to be listed before the learned trial court on 18th November, 2015. The plaintiff filed a suit for declaration that he is a lawful tenant on the basis of an unregistered deed of family settlement executed by his father.

In view of the long passage of time, we presume that the injunction petition must have been disposed of in the meantime and that could be the reason for which the appellant is not represented before us. The impugned order must have lost its force in the meantime, although,

we are not commenting on the merits of the order impugned.

In view thereof, we dismiss the appeal being FMAT 973 of 2015 as well as the stay petition being, CAN 2 of 2015 (old CAN 9659 of 2015).

(Ajoy Kumar Mukherjee, J.)

(Soumen Sen, J.)