

21.09.2022
KC(22)

S.A.102 of 2022
Shibapada Roy
-versus-
Sankar Roy and Anr.
With
CAN 1 of 2022

Mr. Rwitendranath Banerjee,
Ms. Maheswata Pramanik.....For the appellant.

An affidavit of service is on record.

None appears for the respondents. No
accommodation is sought.

The appellant is aggrieved by the judgment and
order dated 20th December, 2021 of the first appellate
court dismissing his application for condonation of 227
days' delay in preferring the appeal. The appeal was
against a preliminary decree of the learned first court.
The effect of this impugned judgment and order would
be affirmation of the preliminary decree.

Taking all facts and circumstances into
consideration we are of the view that the learned first
appellate court ought to have condoned the delay and
heard out the appeal on merits.

Accordingly, we set aside the judgment and order
dated 20th December, 2021 passed by the learned
District Judge, Barasat in Title Appeal No. 15 of 2020
and direct the learned first appellate court to hear out

the appeal on merits within six months of communication of this order, preferably.

The appeal (S.A. 102 of 2022) and the connected application (CAN 1 of 2022) are disposed of.

(I.P. MUKERJI, J.)

(BISWAROOP CHOWDHURY, J.)