

July 28, 2022
AD 15
Court No.1
PA (RB)

MAT 733 of 2022
With
CAN 1 of 2022
CAN 2 of 2022

Chandan Kumar Mondal

vs.

The Central Bank of India and Another
(Through Video Conference)

Mr. Prantick Ghosh, Advocate

... for the appellant

Ms. Usha Doshi,
Ms. Priyanka Gope, Advocates

... for the respondents

This intra-court appeal is at the instance of the writ petitioner challenging the order of the learned Single Judge dated 26th of November, 2019 whereby WP 15449(W) of 2014 has been dismissed.

Since there is a delay of 868 days in filing the appeal, therefore, CAN 1 of 2022 has been filed seeking condonation of delay.

Submission of learned counsel for the appellant is that the delay took place because appellant was suffering from covid and that the period from 26th of March, 2020 to 28th of April, 2022 is required to be excluded in view of the order of the Hon'ble Supreme Court. No such order of the Hon'ble Supreme Court has been placed on record or pointed out by the learned counsel for the appellant.

As against this, learned counsel for the respondent has opposed the application by submitting that the delay

has been sufficiently explained and no ground for condonation of delay is made out.

We have heard the learned counsel for the parties and perused the record.

The impugned order was passed by the learned Single Judge on 26th of November, 2019 whereas, this appeal has been filed on 12th of May, 2022. As per the contention of learned counsel for the appellant, period from 26th of March, 2020 to 28th of February, 2022 is required to be excluded in view of the order of the Hon'ble Supreme Court but in the present case, limitation for filing the appeal had expired much prior to 26th of March, 2022. On 26th of March, 2022, there was a delay of about three months for which no explanation has been furnished. Even after 28th of February, 2022, no prompt steps were taken for filing the appeal and the same has been filed on 12th of May, 2022. For this delay also, no proper explanation has been furnished. The record further reflects that even a certified copy of the impugned order has been applied after about two and a half years, on 4th of April, 2022. The medical documents enclosed with the petition are only for the period of May/June, 2021. Hence, we are of the opinion that the appellant has failed to furnish proper explanation for such a long delay.

That apart, we also do not find any merit in this appeal. The appellant had approached the writ court with the plea that he was the auction purchaser under the

Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and was not given possession of the secured asset. Learned Single Judge has found that the appellant had received the possession of secured asset on 12th of September, 2013. This document is on record as annexure R-1. This fact was disputed by the appellant, therefore, learned Single Judge while reaching to the conclusion that the writ petition was not maintainable, has observed that the disputed question of facts are involved in the matter.

Be that as it may, since no sufficient explanation for the delay has been furnished and the appellant has failed to show that he was prevented from filing this appeal within time on account of any bona fide reason, therefore, we are of the opinion that no case for allowing the prayer for condonation of delay is made out.

Accordingly, CAN 1 of 2022 is rejected. Consequently, the appeal is dismissed.

[Prakash Shrivastava, C.J.]

[Rajarshi Bharadwaj, J.]