

Item-130.	18-08-2022	FMAT 680 of 2016 [CAN 9619 of 2016] CAN 7548 of 2016
sg	Ct. 8	Md Soyeb Ali & Ors. Versus Alamgir Ali

Mr. Anirban Das, Adv.
...for the appellant

Ms. Shila Sarkar, Adv.
...for the caveator/respondent

In Re: CAN 9619 of 2016

We are satisfied with the explanation offered by the appellant for not being able to present the memorandum of appeal within the period of limitation.

Accordingly, we allow this application for condonation of delay. The delay of 16 days in preferring the present appeal is hereby condoned.

CAN 9619 of 2016 is accordingly, disposed of.

In Re: CAN 7548 of 2016

The appeal is directed against an order passed by the learned Trial Court on 17th March, 2016 in connection with an application filed under Order 39 Rule 1 and 2 read with section 151 of the Code of Civil Procedure in a suit for specific performance of an agreement.

The learned Trial Judge being satisfied that the plaintiff has performed its part of the obligation and is ready and willing to fulfil the essential terms and conditions of the said obligation and

that the defendant is failed to give any convincing evidence with regard to the receipt of the said amount granting an order of injunction in favour of the appellant.

In a suit for specific performance, once the plaintiff is able to establish that the readiness and willingness and the defence of the defendant does not appear to be convincing, the Court shall ordinarily pass an order of injunction so as to preserve the property in question.

We have been informed that the suit is pending. From the status report furnished by the learned Civil Judge (Senior Division), 1st Court, Barasat, it appears that no substantial progress has been made in the suit and the suit is yet to be disposed of on merit.

Under such circumstances, we direct the learned Trial Court to disposed of the suit as early as possible, preferably within a period of six months from the date of communication of this order without granting any unnecessary adjournment to either of the parties.

The learned Trial Judge may give peremptory directions with regard to procedural matters in order to make the said suit ready for hearing and if the formality is yet to be completed, may proceed with the suit without any further delay.

The learned Registrar Administration (L&OM) is requested to communicate this order to the learned Civil Judge (Senior Division) for compliance.

This order shall immediately be communicated to the learned Registrar Administration (L&OM) for doing the needful.

With the above directions, the appeal and the connected application are disposed of.

(Siddhartha Roy Chowdhury, J.)

(Soumen Sen, J.)