

21.12.2022
SL No.139
Court No.8
(gc)

FMAT 972 of 2014
CAN 1 of 2014 (Old No: CAN 9572 of 2014)

Susanta Chandra
Vs.
Ashoke Ghosh & Ors.

This matter appeared in the Warning List of 29th November, 2022 with a clear indication that this matter shall be transferred to the Regular Bench on 5th December, 2022. Since then the matter is appearing in the list. The appellant has due notice of the matter. The appellant is not represented.

There is a delay of 55 days in preferring the appeal. The Coordinate Bench on 24.09.2015 directed service of the application for condonation of delay upon all the respondents and the matter was directed to go out of the list for the time being with liberty to mention after completion of service. No attempt was made by the appellant to have the matter listed since then. The affidavit-of-service is also not with the record. As stated earlier, this matter was appearing in the Warning List on 29th November, 2022. It clearly shows that the appellant is not interest to proceed with the matter.

The impugned order is dated 31st May, 2014. We have gone through the impugned order. It does not, prima facie, appear to us that in the facts and circumstances of the case the direction passed by the learned Trial Court in directing the defendant No.1 to act as Receiver of the respondent No.2 at Katwa was perverse. The learned Trial Judge has stated

in some detail the reasons for appointment of the Receiver. In fact, it would appear that the High Court by its order dated 15th February, 2011 confirmed the earlier order for appointment of Receiver and left the matter open to the Trial Court to decide at the final hearing. There are allegations of misappropriation/defalcation of fund. The appointment of the Receiver would be in the interest of the parties.

At this distant point of time, the appeal for all practical purposes has become infructuous. Although the appellant is not represented, we feel that in the interest of justice, we may allow the application for condonation of delay with the direction upon the Trial Court to dispose of the suit as expeditiously as possible.

Accordingly, the application for condonation of delay being CAN 1 of 2014 (Old No: CAN 9572 of 2014) is allowed and disposed of.

The appeal stands disposed of by confirming the order passed by the Trial Court with a direction upon the learned Trial Court that in the event the suit is pending may dispose of the suit on merits preferably within a period of six months from the date of communication of this order by the Office of the Registrar Administration (L&OM).

(Uday Kumar, J.)

(Soumen Sen, J.)