

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
Original Side

Present:- Hon'ble Justice I. P. Mukerji
Hon'ble Justice MD. Nizamuddin

APD 170 of 2018
CS 324 of 1989
GA 1/2016 (GA 2571/2016)
GA 2/2018 (GA 1440/2018)
Ambalal Sarabhai Enterprises Limited
Vs.
Smt. Kiran Arya & Ors.

And

APD 169 of 2018
CS 323 of 1989
IA No. GA/1/2016 (old GA 2567/2016)
IA No. GA/2/2018 (old GA 1439/2018)
Ambala Sarabhai Enterprises Limited
Vs.
Smt. Prem Lata Arya & Ors.

For the Appellant	:	Mr. Utpal Bose, Senior Adv. Mr. Debdoot Mukherjee, Adv. Mr. Dhilon Sengupta, Adv. Mr. Meghajit Mukherjee, Adv.
For the Respondents	:	Mr. Pradip Sanehati, Adv. Mr. Rudrajit Sarkar, Adv. Mr. Debangshu Dinda, Adv.
Judgment on	:	21.01.2022.

I. P. MUKERJI, J.-

These intended appeals are on identical issues of facts and law as the other connected appeal (APD 62 of 2016). We have dismissed the appeal (APD 62 of 2016) on merits, today.

The only difference between these appeals and the other is that in each of these two appeals there is a delay of 700 odd days in preferring it. The applications for condonation of delay are contested by the respondents.

Suppose they succeed in this contest. The appeals would be dismissed on the ground that they are barred by limitation. The merits would remain undecided.

Look at the situation in this way. Since the facts and law of these appeals and the other appeal are identical, if these appeals are decided on merits, their fate would be the same as the other one. In no way can the decision on merits be altered.

In my opinion, a matter is fully adjudicated upon when it is disposed of on merits rather than on any technical ground, like limitation.

Hence, I would condone the delay in filing each of these appeals, as a special case, admit the appeals and dismiss the same on the self same grounds as the appeal APD 62 of 2016. The pending connected applications are disposed of accordingly.

Certified photocopy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

I agree,

(MD. NIZAMUDDIN, J.)

(I. P. MUKERJI, J.)