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Ct-08

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FMAT 46 of 2023

with

I.A No. CAN 1 of 2023

CAN 2 of 2023

Smt. Namita Kar

Vs.

Smt. Krishna Rani Kar

Mr. Debasis kar

Mr. Arka Tilak Bhadra

... For the Appellant/Applicant

Re: CAN 1 of 2023

This is a delay of 253 days in presenting the memorandum of appeal.

We are satisfied with the explanation offered for not being able to file the memorandum of appeal beyond the statutory period, we are inclined to condone the delay in presenting the memorandum of appeal being FMAT 46 of 2023.

The application for condonation of delay is, thus, allowed without any order as to costs.

CAN 1 of 2023 is thus disposed of.

FMAT 46 of 2023

The applicant is the mother of two children, Arpan Kar and Debarpan Kar, one of whom attained majority during the filing of the application filed under Section 7 of the Guardian and Wards Act.

The learned Trial Judge has rightly held that since Arpan Kar attained majority during the pendency of the said application, the question of appointing her mother as guardian does not arise. Mr. Debarpan Kar is still minor.

The trial court disallowed the application for sale of the share of Debarpan on the ground of legal necessity not being established. The trial court was of the view that the applicant has failed to disclose the source of fund towards maintenance of the applicant and her two children since the death of her husband on 17th May, 2016. The trial court was not satisfied with the explanation offered for which immediate necessity to sale the said share of the minor.

Learned counsel for the appellant submits that the relations of Atanu, the husband of the appellant, maintaining the family and the wife has no independent source of income. However, no such evidence could be produced before the trial court. Learned counsel submits that the applicant may be permitted to file a fresh application disclosing required documents to establish the legal necessity in justification of sale of the share of Debarpan.

We, however, do not find any reason to interfere with the order passed by the learned Additional District Judge, 1st Court, Barrackpore, North 24 Parganas in dismissing the application for sale of the share of Debarpan. However, this order shall not prevent the applicant to file a fresh application for sale of the share of the minor upon establishing legal necessity.

In the event any such application is filed, we request the learned Additional District Judge of the court concerned to dispose of the said application as expeditiously as possible preferably within a period of four months from the date of completion of all formalities, in accordance with law.

On such consideration, the appeal is disposed of.

In view of disposal of the appeal CAN 2 of 2023 is also disposed of.

(Uday Kumar, J.)

(Soumen Sen, J.)