

13 21.06.23

Ct. No. 04

akd

F.M.A.T. 353 of 2022

**Nirmal Bhattacharya
Vs.
Pijush Kumar Basak**

**Mr. Syamal Kumar Das,
Mr. Sarada Prasad Ray,
Ms. Krishna Yadav.**

... for the appellant.

**Mr. Siddhartha Banerjee,
Mr. Avishek Guha,
Ms. Akansha Chopra,
Ms. Arunika Dutta.**

... for the respondent.

Seen the report of the Stamp Reporter and noticed that the instant appeal has been wrongly filed before this Court.

We have perused the order impugned in the instant appeal, wherefrom it appears that an application for condonation of delay in filing an application under Order IX Rule 9 of the Code of Civil Procedure filed in connection with a suit instituted before the Civil Judge (Senior Division) is dismissed and in view of Section 21 of the Bengal, Agra and Assam Civil Courts Act, the appeal lies before the District Judge and not before the High Court.

Accordingly, the appeal is dismissed as not maintainable.

However, dismissal of the appeal shall not prevent the appellant to pursue his remedy before the appropriate forum.

The Assistant Court Officer is directed to return the certified copy of the impugned order to the learned

Advocate on record of the appellant upon replacement with a photocopy thereof.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)