

31-07-2023
ct no. 13
sl. no.11
pk

SAT 282 of 2014
IA No. CAN 1 of 2014(Old CAN 6810 of 2014)
Jakir Ali Mollah
-Versus-
Sk. Nur Islam and others

Mr. Shyanmal Chakraborty
...for the appellant.

Mr. Musharraf Alak Sk.
... for the respondent no. 1.

1. The appeal is directed against judgement and order dated 25.02.2014 passed by the Additional District Judge, Amta, Howrah refusing to condone the delay of 563 days in filing the appeal against judgement and order of the Civil Judge (Junior Division), Amta dated 28.03.2012 passed in T. S. No. 118 of 2008.

2. The Court below found that the appellant had approached the lower appellate court with unclean hands and had made false and baseless allegations against dealing assistant of the copying department. The application under Section 5 was filed with the false statement was made to explain the delay of 563 days in filing the appeal.

3. The court below found that certified copy of the judgement dated 28.03.2012 was ready on 04.04.2012 but the requisite folio fees was not deposited for obtaining certified copy. The

application for certified copy was therefore rejected on 27th August, 2012.

4. On a fresh application for certified copy, the appellant sought to blame the dealing assistant of the copying department to cover up his own laches.

5. This Court also finds that the writ petitioner has suppressed material facts and has made misstatement thereof before the lower appellate court. The rejection of the application under Section 5 of the Limitation Act by the impugned order dated 25.02.2014 is sound and supported by reasons.

6. A litigant who comes to Court with unclean hands is not entitled to equity. The decision of the **Radha Krishna Rai Vs. Allahabad Bank and others** reported in **(2000) 9 SCC 733** placed by counsel cannot come to the aid of the appellant. In the said case, there was no suppression of material facts made on the part of the appellant therein. It is in that context that the delay of 1418 days was condoned by the Hon'ble Supreme Court, that too in exercise of special extraordinary powers invested with it.

7. In view of the above, the impugned order dated 25.02.2014 does not call for any interference.

8. This Court has briefly considered the judgement dated 28.03.2012 for the purpose of considering as to whether any grave injustice has been suffered by the appellant. This Court could not find any such injustice.

9. The instant appeal fails and is dismissed. In view of dismissal of the appeal, connected application, if any, is also disposed of.

10. Interim order, if any, shall stand vacated.

11. There will be no order as to costs.

12. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Supratim Bhattacharya, J.)