

10.01.2023  
SL No.28  
Court No.8  
(gc)

**SAT 525 of 2014**  
**CAN 1 of 2014 (Old No: CAN 11754 of 2014)**  
**(not in file)**

**Abdul Gani Sardar & Ors.**  
**Vs.**  
**Kurban Ali Sardar & Ors.**

This matter appeared in the Warning List of 29<sup>th</sup> November, 2022 with a clear indication that this matter shall be transferred to the Regular List on 5<sup>th</sup> December, 2022. Since then the matter is appearing in the list. The appellants have due notice of the matter. The appellant is not represented. The appeal is defective.

The appellate order dismissing the application filed under Section 5 of the Limitation Act, 1963 dated 25.07.2014 is a subject matter of challenge in this second appeal. The suit was disposed of by the judgment and decree dated 09.04.2009 and 21.05.2009 respectively. The suit was for partition. It was dismissed on contest. We have considered the order under appeal. We do not find any reason to interfere with the discretion exercised by the Trial Court in not allowing the prayer for condonation of delay.

Accordingly, the second appeal stands dismissed at the admission stage.

In view of dismissal of the second appeal, the application also stands dismissed.

**(Uday Kumar, J.)**

**(Soumen Sen, J.)**