

19.06.2024
Ct. No.33
Sl. No.75
cm

SAT 113 of 2015
With
CAN 3 of 2017 (Old NO. CAN 737/2017)

Sahalam Molla & Ors.
With
Arkach Ali Khan & Ors.

Mr. Suwendu Banerjee
... for the appellants

Mr. Gazi Faruque Hossain
... for the respondents

The learned advocate for the appellants submits that the lower appellate court being Civil Judge (Senior Division), Baruipur, South 24 Parganas had dismissed the title appeal No. 3 of 2011 exclusively on the ground of delay rejecting the prayer in an application filed under Section 5 of the Limitation.

The learned advocate for the appellants further submitted that the delay of 10 days in filing the aforesaid appeal was not mentioned in the application under Section 5 of the Limitation Act. The learned advocate for the appellants further prayed that the appeal be allowed with a direction upon the learned lower appellate court to dispose of the appeal on merits.

The learned advocate for the respondents left the entire issue at the discretion of the Court.

The learned lower appellate court on its own accord could have pointed out the lapse in the application

under Section 5 of the Limitation Act with regard to the number of days concerning the delay to have been missed out in the said application. The instant appeal is allowed with the direction upon the learned lower appellate court to dispose of the appeal on merits.

Accordingly, the instant appeal and connected applications are disposed of.

Copy of the order be sent to the Department as well as learned trial court for due compliance.

(Ananya Bandyopadhyay, J.)