

AD- 36
Ct No.16
09.06.2025
(SSS)

FMAT 45 of 2025
With
CAN 1 of 2025

Sri Utpal Mondal and Anr.
Vs.
Hayder Ali Mondal @ Haider Ali Mondal and Anr.

Mr. Subrata Karmakar
....For the Appellants.

CAN 1 of 2025

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1. The present appeal has been preferred against an order of ad interim injunction.
2. In paragraph no. 3 of the application for condonation of delay in preferring the appeal, it has been cursorily mentioned that the “petitioner” works outside the State of West Bengal and as such, could not prefer the appeal in time (without specifying which of the two appellants/petitioners is being referred to).
3. However, we find that there are two appellants/petitioners in the present appeal and no sufficient reason as to what prevented them from taking information about the litigation for the long period of seven months has been furnished in the application.
4. Hence, since it is well-settled that the reasons furnished, and not the period of delay, is germane

while considering an application for condonation of delay, we find that the purported reasons furnished in the application are utterly insufficient to condone the delay.

5. Moreover, since the appeal itself has been preferred against an ad interim order of injunction, the delay of seven months in preferring the appeal is also fatal to the interest of the appellants since it clearly shows that the equitable considerations do not lean in favour of the appellants.

6. Accordingly, CAN 1 of 2025 is dismissed without any order as to costs.

7. Consequentially, FMAT 45 of 2025 is dismissed as time-barred.

8. However, since the main injunction application is pending in the trial court, we express the hope and trust that the learned Trial Judge shall dispose of the pending application for injunction, along with the connected application under Order XXXIX Rule 4 of the Code of Civil Procedure filed by the appellants as expeditiously as possible, preferably within eight weeks from the date of communication of this order to the court below, subject to the appellants filing their written objection to the injunction application within a week from date in the trial court, if not already filed.

9. No order as to costs.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)