

Item-
10. 11-08-2025

FMA 418 of 2025

sg Ct. 16

Mongal Chandra Ghosh
Versus
Basudeb Rajak & Ors.

Mr. Partha Pratim Roy
Mr. Anirban Das

...for the appellant

1. This appeal is arising out of an order dated 28th November, 2024 passed by the learned Civil Judge (Senior Division), Tehatta, Nadia.
2. We have read the impugned order carefully. Only one of the plaintiffs has filed this appeal. There is inexcusable delay on the part of the appellant before the learned Trial Court for restoration of the suit. In fact, all the plaintiffs have not joined with the present appellant in this appeal. The appeal is also filed only by the plaintiff no.4.
3. It appears from the impugned order that after examination of the DW-13, no step has been taken by the plaintiffs including the present appellant and thereafter an application was filed for restoration of the suit after it was dismissed on 12th April, 2018. In fact, the plaintiff did not respond the show cause notice issued on 4th January, 2018. The records reveals that the examination of DW-13 has been fixed for thrice and on 4th January, 2018, it was brought to the notice of the Court about the demise of Suresh Rajak, the defendant no.12. The petition is defective. DW-12 was also examined.
4. There has been complete laches on the part of the

plaintiff in conducting the partition suit. The order-sheet reveals the agony of the learned Trial Court and a clear intention of the plaintiff to delay the trial of the partition suit. Moreover, as mentioned above, that the plaintiffs are not aggrieved save and except the plaintiff no.4.

5. On such consideration, we do not find any reason to admit this appeal.
6. Mr. Partha Pratim Roy, learned Counsel appearing for the appellant has submitted that his right to claim as a co-sharer in the joint family property may not be foreclosed by the reason of dismissal of the earlier suit.
7. We do not propose to go into such question. We only observed that this shall not preclude the plaintiff no.4 to enforce any legal rights if he is otherwise entitled in law.
8. The appeal is, accordingly, dismissed.

(Soumen Sen, J.)

(Biswaroop Chowdhury, J.)