

AD- 30
Ct No.16
18.02.2025
(SSS)

SAT 37 of 2024
With
CAN 2 of 2024

Nemai Chakraborty
Vs.
Sree Sree Iswar Giridhari Jiew and Anr.

Mr. Subrata Santra,
Mr. Souri Ghosal,
Mr. Subhojit Mukherjee

....For the Appellant.

Mr. Partha Pratim Roy,
Mr. Samrat Chakraborty
....For the Respondents.

1. The present second appeal shall be heard on the following substantial question of law:

Whether the learned first appellate Judge gave a go-by to the well-established liberal principles of law in respect of adjudication of applications for condonation of delay in dismissing the appellant's application for condonation of delay in preferring the title appeal, only on the premise that no one can plead ignorance of law to defend his or her actions, without adverting to the averments made in the application for condonation of delay on merits at all.

2. On consent of the parties, in view of the short point involved, the appeal along with the application is taken up for final hearing. The necessity for calling for the records and/or preparation of formal paper books is dispensed with.

3. We find from the records that sufficient reasons for the delay in preferring Title Appeal No. 6 of 2023 was furnished by the appellant in his application under Section 5 of the Limitation Act. Although ignorance of law might not be a valid ground, even apart from that, sufficient justification for the delay in preferring the appeal has been made out in the application for condonation of delay.

4. Accordingly, SAT 37 of 2024 is allowed, thereby setting aside Order No. 5 dated October 4, 2023 as well as the consequential decree passed by the first appellate court by allowing the application under Section 5 of the Limitation Act and condoning the delay in preferring Title Appeal No. 6 of 2023.

5. The title appeal is remanded to the appellate court for adjudication on merits.

6. It is expected that the learned Appellate Judge shall dispose of the appeal as expeditiously as the business of the appellate court permits, preferably within eight months from the date of communication of this judgment to the court below.

7. Liberty is granted to the appellant to pray for stay of the connected execution case before the First Appellate Court.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)