

AD- 13
Ct No.10
04.08.2025
(SSS)

SAT 55 of 2023
With
CAN 1 of 2025
With
CAN 2 of 2025
With
CAN 3 of 2025

Sri Satya Pandit
Vs.
Sri Dhrubaram Kanu

Mr. Sounak Bhattacharya,
Mr. Gourab Ghosh
.....For the appellant.

Mr. Sukanta Das
....For the respondent.

1. CAN 1 of 2025 is an application for condonation of delay in preferring CAN 2 of 2025, the latter being an application for restoration of the appeal.
2. We hear learned counsel for the parties and consider the averments made in both the applications, since those are interconnected insofar as the explanation of the delay and the absence of the appellant on the relevant date are concerned.
3. The case sought to be made out in the applications by the appellant is that the appellant was unaware of the automatic dismissal of the appeal

due to non-deposit of a meagre amount of court fees of Rs.112/-.

4. Learned counsel for the appellant submits that the appellant, immediately after coming to know of the same, contacted his erstwhile learned Advocate who gave out that the matter was missed in the list on the relevant date and as such, the dismissal was not detected, only before much subsequently, when information was sought to be taken at the behest of the appellant.

5. Heard learned counsel for the parties.

6. It appears that sufficient reasons for the delay has been made out in the applications, inasmuch as the appellant was indisposed medically for a considerable period of time after the dismissal of the appeal for default and is of the advanced age of 75 years.

7. That apart, we find it entirely plausible that the erstwhile learned Advocate for the appellant had missed the matter in the list, which ensued in detecting the order of this court much later.

8. A third issue which has cropped up is whether the coordinate Bench of this court, at the first stage when the matter was to appear under the heading "Lawazima for Orders", could have passed an order whereby the appeal would automatically stand dismissed without further reference to the court before putting up the matter in the list under the

heading “Lawazima for Final Orders” as per the rules and the established practice of this Court.

9. Upon hearing learned counsel for the parties and advertng to the above issues, we are of the considered opinion that the delay in preferring the application and the absence of the appellant on the relevant date has to be condoned, since sufficient cause for both have been made out.

10. Accordingly, CAN 2 of 2025 is allowed, thereby condoning the delay in preferring CAN 1 of 2025.

11. CAN 1 of 2025 is also allowed, recalling the order dated May 17, 2023 passed in SAT 55 of 2023, thereby restoring the said appeal to its original file and number, subject to the condition that the appellant rectify the defects pointed out at the relevant juncture, and deposits the deficit court fees of Rs.112/- by tomorrow i.e. by August 5, 2025 positively.

12. In the event the said deposit is not made, both the applications shall stand automatically dismissed. Subject to the deposit being made, let the appeal be placed under the heading “Order XLI Rule 11” on August 18, 2025.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)