

29 13.10.2020.

Ct.No.12
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F.A.T. 237 of 2020
With
CAN 1 of 2020
(CAN 5779 of 2020)
With
CAN 2 of 2020
(CAN 5780 of 2020)

(Through Video Conference)

Bata India Ltd.
Vs.
Ranjit Singh & Anr.

Mr. Sakya Sen.

Ms. Labanyasree Sinha,

Mr. A. Bose

... For Appellant

Mr. Prabal Kr. Mukherjee,

Mr. Partha Sarathi Das.

... For Respondents

Re: An Application for Condonation of Delay
being C. A. N. 1 of 2020 (CAN 5779 of 2020).

This is an application for condonation of delay. There is a delay of 241 days in preferring the present appeal.

We have gone through the application for condonation of delay and we are satisfied with the explanation offered for delay in preferring the appeal. However, we impose cost assessed at Rs. 5,000/- as a condition precedent for allowing the appellant to file the memorandum of appeal.

Subject to the payment of costs assessed at Rs. 5,000/- to the respondent no. 1 through the learned advocate on record within a period of seven days from date, the appeal shall be registered, in default, the appeal shall stand dismissed.

The application for condonation of delay being CAN 1 of 2020 (CAN 5779 of 2020) is allowed.

Re: An Application for Stay being C.A.N. 2 of 2020 (CAN 5780 of 2020).

This appeal is arising out of an eviction decree passed against the appellant.

Subject to the payment of costs and compliance of the order passed in CAN 1 of 2020 (CAN 5779 of 2020), there shall be stay of operation of the decree till the disposal of the appeal upon the appellant depositing the entire decretal dues with the learned Registrar General, High Court, Calcutta on or before 21st October, 2020 upon prior intimation to the respondents/decreed-holders and upon payment of occupation charges assessed at Rs. 80,000/- per month on and from October 2019 till date. The appellant shall continue to pay such occupational charges to the decree-holders for the future period by 10th of each month, first of which shall be paid by 10th November, 2020. The arrear occupation charges from October 2019 till September 2020 shall be paid by 30th October, 2020. All further occupation charges shall be made by 10th of each succeeding month.

In the event of default of any of the conditions, the interim order shall automatically stand vacated.

The learned Registrar General, High Court, Calcutta, shall invest the said amount in a short term fixed deposit account with any nationalised bank yielding highest return and shall continue to renew the same from time to time until further orders or till the disposal of the appeal whichever is earlier.

Upon compliance of such conditions , there shall be stay of Title Execution Case No. 1 of 2020 pending before the learned Civil Judge (Senior Division), 3rd Court, Barasat till the disposal of the appeal.

In breach of any of the conditions stipulated above, the Title Execution Case No. 1 of 2020 shall revive.

In the event the appeal is allowed, the defendant shall be entitled to claim adjustment of occupation charges paid against the rent on reasonable letting out value for the period during appeal and refund for any amount paid in excess. All payments made and amount received by the parties in terms of this order shall be without prejudice to the rights and contentions of the parties.

The application for stay being CAN 2 of 2020 (CAN 5780 of 2020) is disposed of.

Mr. Partha Sarathi Das, learned advocate-on-record appears along with Mr. Probal Kumar Mukherjee, learned senior counsel appearing on behalf of the respondents waives service of notice of appeal upon the respondents.

The respondents are directed to prepare and file requisite number of informal paper books, printed, type-written or cyclostyled, as the case may be out of Court, within a period of three weeks after the Puja Vacation and shall serve copies of the same upon Mr. Subhojit Roy, learned advocate assisting Mr. Sakya Sen, learned senior counsel for the appellant within one

week thereafter.

All formalities regarding preparation of paper books are dispensed with, but the learned advocate for the respondents is directed to incorporate all the relevant papers and documents in such informal paper books.

The appeal may be listed after filing of paper books.

Pendency of the appeal shall not prevent the parties to arrive at an amicable settlement and the parties are at liberty to approach the High Court Mediation Centre for mediation to resolve their disputes.

(Soumen Sen , J)

(Saugata Bhattacharyya, J)