

D/L.16.
June 16, 2025.
MNS.

FAT No. 205 of 2017
+
CAN 1 of 2025
+
CAN 2 of 2025

Ashis Kumar Mondal
Vs.
Sri Subhas Chandra Mandal and others

Mr. Sourav Prasanna Mukherjee

... for the appellant.

Re : CAN 1 of 2025 (condonation of delay)

1. The affidavit-of-service filed today be kept on record, along with the connected envelopes.
2. Since the service has been refused by most of the respondents, we deem the same to be good service and take up the application for condonation of delay for hearing.
3. The explanation given for the delay of 1262 days in preferring the appeal is absolutely cryptic.
4. In paragraph 2 of the application, the appellant mentions the name of his Advocate in the trial court and contends that the said learned Advocate advised the appellant to prefer an application under Article 227 of the Constitution of India and, after a lapse of one year, advised the appellant to meet a learned Advocate of this Court. However, not a single line has been devoted in the application as to what steps the appellant took, even if

erroneously, to prefer such application under Article 227 of the Constitution of India during the said period of one year.

5. In paragraph 3 of the application, another learned Advocate, apparently practising in this court, has been named and it has been barely stated that due to laches and/or negligence on the part of the said Advocate, the appeal could not be filed in time and ultimately the learned Advocate returned back all the papers to the appellant, upon which the present appeal has been filed.
6. However, we are unable to convince ourselves as to the sufficiency of the grounds of delay sought to be furnished by the appellant. Nothing is before us, nor is any averment made in the application, to show that the learned Advocate who was instructed to prefer the appeal was properly paid and/or the appellant took appropriate steps for contacting the said Advocate in order to ensure that the appeal is filed in time.
7. Thus, we find that the reasons purported to be given for the prolonged delay of 1262 days in preferring the appeal are absolutely insufficient. The negligence of the appellant is palpable from the averments made in the application itself.
8. Although, under normal circumstances, a liberal view is taken in such matters, it has been held time and again by different High Courts and the Hon'ble

Supreme Court that such benevolence is not extended to a litigant, who is either negligent or is not diligent enough to ensure that the appeal is filed in time.

9. Thus, we do not find any sufficient explanation for preferring the appeal after the inordinately long period of 1262 days.

10. Accordingly, CAN 1 of 2025 is dismissed.

11. Consequentially, FAT No. 205 of 2017 stands dismissed as time-barred.

12. As a result, CAN 2 of 2025 is also disposed of.

13. There will be no order as to costs.

(Uday Kumar, J.)

(Sabyasachi Bhattacharyya, J.)