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25.7.2025
Ct. No. 16
SB

FAT 200 of 2025
CAN 1 of 2025 (stay)
CAN 2 of 2025 (condonation of delay)

Shrabanti Das
Vs.
Ajoy Das

Ms. Anita Khatri for the appellant

Mr. Kallol Kumar Basu
Mr. Prasant Bishal
Md. Jannat ul Firoos ... for the respondent

1. By consent of the parties, the appeal and the applications are heard together and disposed of by this common order.
2. There is a delay of 966 days in preferring the appeal.
3. The appellant is represented by an advocate appointed by the Calcutta High Court Legal Services Committee.
4. We are satisfied with the explanation offered for not being able to file the appeal within the period of limitation. The delay of 966 days is condoned. Although, it has been submitted that in a maintenance case the wife had in her evidence stated that she is aware of the Matrimonial Suit but as we could make out she was not conversant with the procedure and she had to depend upon the learned advocate conducting the matter and there has not been any culpable negligence on her part in participating in the said proceeding and also considering her financial background and the difficulties she faced in conducting the trial before the learned Additional District Judge, F.T.C. 3rd Court,

Basirhat, North 24 Parganas and also having regard to the nature of the order impugned i.e. a decree passed in a Matrimonial Suit, we are inclined to allow the application for condonation of delay. We have come across in many cases, where the learned advocate representing the parties are not taking due care. Moreover, we have read the judgement impugned carefully. Although the suit for divorce was filed on the ground of cruelty but it does not appear from the impugned judgement and decree that the ground of cruelty was proved by *ex parte* evidence of the husband. There must be some indication in the judgement with regard to the appellant being able to establish the ground of cruelty. It may not be in so many words but a brief analysis of the fact and evidence is required since the appellant has a right to prefer an appeal.

5. On such ground we allow the application for condonation of delay.
6. The application being CAN 2 of 2025 is disposed of. The decree is set aside.
7. We direct the Secretary, District Legal Services Authority to appoint a competent advocate from the panel to represent the wife in the Matrimonial Suit.
8. The wife has not filed any written statement in the pending suit.
9. The wife is directed to appear before the learned Additional District Judge, F.T.C. 3rd Court, Basirhat, North 24 Parganas within two weeks from date and shall be represented by a competent advocate to be appointed by District Legal

Services Authority, North 24 Parganas. All the parties are directed to be present on each and every date as may be directed by the learned Trial Court for expeditious disposal of the suit.

10. The wife shall file a written statement in MAT Suit No. 34 of 2022 renumbered as MAT 122 of 2022 before the learned Trial Court positively within four weeks from date.
11. The learned Trial Court shall make a time frame for the purpose of conducting the trial.
12. In view of the fact that nationwide mediation is being launched recently, the District Legal Services Authority shall appoint a Mediator in the meantime and refer the dispute for mediation immediately upon receipt of the copy of a order.
13. The parties are directed to participate in the mediation proceeding and make all endeavour to resolve their dispute amicably.
14. The presence of the child if required during mediation shall be ensued. However, it is for the learned Mediator to decide the procedure to be adopted in this regard.
15. The plaintiff and the defendant shall strictly follow this order and shall attend the mediation proceeding and all future proceedings.
16. This order shall be immediately communicated to the Secretary District Legal Services Authority, North 24 Parganas through the Secretary State Legal Services Authority.
17. The department is directed to communicate this order immediately to the Secretary, State Legal Services Authority

and if possible in course of the day and the Member Secretary, State Legal Services Authority is directed to comply with this direction forthwith.

18. The appeal and the applications are disposed of.

19. Since no affidavit-in-opposition is called for, all allegations are deemed to have been denied.

(Soumen Sen, J.)

(Apurba Sinha Ray, J)