

23
15.9.2025
Ct. No. 16
SB

FMAT 326 of 2025
CAN 1 of 2025
CAN 2 of 2025
Smt. Ramkali Shaw
Vs.
Pradip Kundu & Anr.

Mr. Tarak Nath Halder ... for the appellant.

Mr. Debmalya Ghosal
Mr. Chandrachur Biswas
Mr. Arnab Dutt
Ms. Labani Dey
Mr. Tathagata Ganguly ... for the respondents.

1. There is a delay of 2 days in filing the appeal.
2. We are satisfied with the explanation offered for not being able to file the appeal within the period of limitation. The delay of 2 days is condoned.
3. Accordingly, the application for condonation of delay is allowed and disposed of.
4. It is submitted that deficit court fees have been paid on 01.9.2025. Department is directed to make appropriate endorsement to that effect.
5. In view of the fact that before the learned Trial Court, the respondents were unable to put in the amount of Rs.18 lakhs which was claimed to be the amount under consideration by the learned Trial Court upon valuation being made.
6. In our view the learned Trial Court was justified in not extending the period and confirm the same in favour of the appellant after making an observation that the respondents

were not ready and willing to purchase the share of the helpless widow.

7. In fact, the said exercise was undertaken pursuant to an order one of us sitting single in similar jurisdiction being CO 986 of 15 on 15.2.2016.
8. However, where the learned Trial Court had gone wrong seems to us is that under Section 44 the stranger purchaser cannot claim possession but can maintain a suit for partition.
9. We have been informed that partition suit has already been filed, hence the appeal is disposed of by directing the parties to maintain *status quo*. Any appropriate order may be obtained in the pending partition suit.
10. With the aforesaid observation, the appeal and the application are accordingly disposed of.

(Soumen Sen, J.)

(Apurba Sinha Ray, J)