

16.09.2025
Item No.16
Ct. No.01
Saikat

FMAT/349/2025
with
IA NO: CAN/1/2025
with
CAN/2/2025

WOODLAND MANUFACTURERS LTD.
VS.
MUKESH KUMAR SAH AND ANR.

Mr. Rudradeb Chowdhury, Adv.
Mr. Vishwarup Acharyya, Adv.
Mr. Shaswat Nayak, Adv.

...For the Appellant

Mr. Debraj Sahu, Adv.
Mr. Hareram Singh, Adv.
Mr. Saptarshi Rajan Chatterjee, Adv.

...For the Respondents

In Re: CAN 2 of 2025

1. This is an application for condonation of delay of 50 days in filing the memorandum of appeal.
2. Being satisfied with the sufficient cause being shown for not being able to file the appeal within the period of limitation, the delay in filing the appeal beyond the statutory period is hereby condoned.
3. Can 2 of 2025 is, accordingly, allowed and disposed of.

In Re: FMAT 349 of 2025

4. The present appellant claims to be (60% approximately) owner of the premises in question. It is alleged that the immediate landlord to the plaintiff was a son of the receiver appointed in earlier and in violation of the order of injunction. Various transfers had taken place, one of which is the present one.

5. It is submitted that the plaintiff in collusion with the defendant antedated the tenancy agreement which, however, would not save them as the creation of the said tenancy was beyond the authority of the said co-sharer who was at that relevant time appointed as a receiver and still is continuing as receiver. The present appellant has already been impleaded in the proceeding before the learned trial court on the basis of an application filed by the present appellant. Whether the induction of the plaintiff in the suit premises was in violation of any injunction or it had incapacitated his immediate landlord to create a tenancy in favour of the present plaintiff, would be a issue to be decided in the suit as on date. Whether he is a tenant or not so long as there is no clear adjudication on the tenancy agreement, the interim order passed in favour of the plaintiff, at this stage, does not call for any interference.
6. However, we make it clear that the observation made in this order or in the impugned order shall not influence the trial or in the subsequent proceeding in future.
7. With the aforesaid observation and direction, the appeal as well as the pending application are disposed of.
8. Urgent Photostat certified copy of this order, if applied for, be given to the parties, on priority basis, upon compliance of all necessary formalities.

[SOUMEN SEN, C.J.(ACTING)]

(APURBA SINHA RAY, J.)