

D/L.31.
October 28, 2025.
MNS.

FAT No. 335 of 2023
+
CAN 1 of 2025

Dipankar Sarkar and others
Vs.
Ashok Dutta and others

Mr. Baidurya Ghosal,
Mr. Sourav Mukherjee,
Mr. Saikat Mukherjee

... for the appellants.

Mr. Sounak Bhattacharya,
Mr. Abhirup Halder,
Mr. Sounak Mondal,
Ms. Bipasha Bhattacharya

...for the respondent nos. 1 and 2.

Re : CAN 1 of 2025 (condonation)

1. The present application, bearing CAN 1 of 2025, is an application for condonation of delay in preferring the appeal.
2. The delay is of about 266 days even as per the petitioners.
3. There is absolutely no explanation furnished in the application as to what prevented the petitioner nos. 1, 2 and 4 from preferring the appeal in time.
4. The only ground cited is in paragraph 4, which says that the petitioner no. 3, the mother of petitioner nos. 1, 2 and 4, is a senior citizen and an elderly person and was admitted in hospital, suffering from various "old age" diseases and was under continuous "government treatment" up to July,

2023 and the entire family was spending their time for such medical treatment.

5. However, from the annexures to the application, we find that only certain check-ups were conducted in respect of petitioner no. 3, that too at the Outdoor Patient Department (OPD) of a government hospital. One USG report has been annexed, which shows that the medical parameters of the petitioner no. 3 were normal. Certain prescriptions indicate that regular, over-the-counter medicines were occasionally prescribed to the petitioner no. 3 which relate to usual illnesses attending every human being.
6. We also do not find a single document to show that the petitioner no. 3 was ever hospitalized or admitted in any hospital.
7. As such, there is absolute lack of parity between the annexures to the application and the pleadings made therein.
8. Moreover, there is no credible explanation as to why none of the petitioner nos. 1, 2 and 4 could prefer the appeal in time, merely because their mother had occasionally suffered from regular day-to-day ailments.
9. It is well-settled that although the period of delay is by itself not important, the quality of the explanation offered is.

10. In the present case, we find that there is absolute dearth of plausible explanation for the huge delay of 266 days in preferring the appeal.

11. Accordingly, we are unable to accept the contentions of the petitioners.

12. Hence, the application for condonation of delay, being CAN 1 of 2025, is dismissed.

13. Consequentially, FAT No. 335 of 2023 is dismissed as time-barred.

14. There will be no order as to costs.

(Uday Kumar, J.)

(Sabyasachi Bhattacharyya, J.)