

AD-09
Ct No.16
30.04.2025
TN

FAT 577 of 2019
IA No: CAN 1 of 2020
(Old No: CAN 167 of 2020)
CAN 2 of 2020
(Old No: CAN 169 of 2020)

Smt. Matho Mandal @ Malati Mandal and others
Vs.
Ananda Mandal and others

Ms. Payel Khanra

....for the appellants

Ms. Malyasree Maity,
Mr. Nishant Kumar

...for the respondent nos. 1 to 6

1. We find from our order dated April 23, 2025 that none had appeared for the appellants at the time of call on the said date, although the respondent nos. 1 to 6 were represented by counsel.
2. We had made clear in the order dated April 23, 2025 that in the event the appellants choose not to appear on the next date, that is, today to move their applications, appropriate orders may be passed *ex parte* in the absence of the appellants. Also, we find from the records that the appeal and the connected applications are pending for the last five years.
3. Today, at the time of call, an adjournment is sought on behalf of the appellants on the ground that the learned Advocate for the appellants has no contact with his clients.

4. As such, we find that the appellants are no longer interested in proceeding with their applications and are content with keeping the matter pending in this court for years together without making any effort to move the matter. In fact, we should also record that the applications are now appearing in the list only upon being mentioned by the respondents, since the respondents are suffering for the past five years merely due to pendency of the appeal and the connected applications.
5. CAN 2 of 2020 (Old No: CAN 169 of 2020) is an application for condonation of delay in preferring the appeal. Since such application is not moved, the appeal is *non-est* in the eye of law.
6. Even in the said application, we find that an averment has been made that the delay in preferring the appeal is 2972 days, which is quite huge.
7. Thus, it is as clear as daylight that the appellants are habitual defaulters and do not have any interest in proceeding with their applications or appeal.
8. Since learned counsel for the appellants submits that she has not got any contact with the appellants, IA No: CAN 1 of 2020 (Old No: CAN 167 of 2020) as well as CAN 2 of 2020 (Old No: CAN 169 of 2020) are dismissed for default.

9. Consequentially, FAT 577 of 2019, being *non-est* in the eye of law, is also dismissed as time-barred.

10. There will be no order as to costs.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)