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09.9.2025
Ct. No. 16
SB

FMAT 426 of 2024
CAN 1 of 2025
CAN 2 of 2025

Smt. Jayasree Ghosh & Ors.
Vs.
Smt. Krishna Sikdar & Ors.

Mr. Srijit Chakraborty
Mr. Subhasis Chakraborty
Ms. Sushmita Kumari Singh
Mr. Amit Chowdhury
Mr. Aditya Mondal ... for the petitioners

Mr. Arnab Dutt
Mr. Tathagata Ganguly ... for respondent no. 1

CAN 1 of 2025

1. There is a delay of 135 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 135 days is condoned.
3. Accordingly, the application for condonation of delay is allowed and disposed of.

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4. In view of the fact that *prima facie* the defendants are in settled position in 'A' scheduled property for the time being, we are not preventing the defendants from raising construction only after obtaining a sanctioned plan.
5. In similar facts, our Court allowed such construction with similar condition as would be inter alia evident from the judgment of this Court in ***Shrimati Satu Bala Dassi &***

Ors. Vs. Chaturanan Saha & Ors. reported in **(2014) 3 WBLR (Cal) 318** and in the case of **Sanghati Pal vs. Prakash Adhuryya & Ors.** reported in **2009(2) CLJ (Cal) 153.**

6. The defendant will not claim any equity. The parties are restrained from transferring, alienating and / or encumbering the suit property in any manner whatsoever till the disposal of the suit or without the express leave of the Trial Court.
7. In view of the fact that it is a partition suit, we request the learned Trial Court to send the parties to mediation as there is every likelihood that the matter may be settled through mediation.
8. The parties and the Department shall immediately communicate this order to the learned Judge, Bench IX, City Civil Court, Calcutta for information and doing the needful.
9. In spite of service respondent nos. 2, 3 & 4 are not represented. However, proforma respondent no. 5 who seems to have supported the plaintiffs.
10. The appeal and the applications are accordingly disposed of.

(Soumen Sen, J.)

(Apurba Sinha Ray, J)