

04.08.2025
SI No.19
Court No.16
(gc)

**FAT 424 of 2024
CAN 1 of 2025
CAN 2 of 2025**

**Sanchari De & Anr.
Vs.
Plaban Seal & Ors.**

Ms. Aiswarjya Gupta
...for the Appellant.
Mr. Ujjal Ray,
Mr. Ivan Roy,
Mr. Abdur Rahim
...for the opposite parties.

Re: CAN 1 of 2025

1. There is a delay of 172 days in preferring the appeal.
2. We are satisfied with the explanation offered for not being able to prefer the appeal within the period of limitation and hence the delay of 172 days in preferring the appeal is hereby condoned.
3. Accordingly, the application for condonation of delay is allowed and disposed of.

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4. We have heard the learned Counsel for the parties on merits with regard to the propriety of the order impugned.
5. The misc. revocation case filed by one of the brothers-in-law who would have succeeded to the estate under Section 15(1)(b) of the Hindu

Succession Act from the side of the deceased/testatrix, the learned Chief Judge, City Civil Court at Calcutta has allowed the said application for revocation on the ground of non-citation of the said heirs that was obligatory under Section 15(1)(b) of the Hindu Succession Act. The probate was granted on 19th March, 2018 and the application for revocation was filed in or about 2018. In the instant case, the testatrix was a widow died issueless and, therefore, the heirs mentioned in Section 15(1)(b) of the Hindu Succession Act, 1956 would be entitled insofar as service of notice of the probate application is concerned. It appears that in the special citation published the name of the applicant for revocation was not mentioned. This is one of the grounds for which the revocation application was allowed.

6. On such consideration, we do not find any reason to interfere with the order passed by the learned Chief Judge, City Civil Court at Calcutta. The probate application is now required to be heard afresh.
7. In the event the applicants filed their objection with regard to the grant of probate which shall be treated as written statement be filed within a period of three weeks from date. The learned Chief Judge shall mark it as contentious cause

and pass appropriate procedural orders in order to make the probate matter ready for hearing and thereafter shall proceed with the trial in accordance with law. However, in the event no affidavit opposing the grant of probate is filed within the aforesaid period, the original order granting probate shall revive.

8. The aforesaid direction is peremptory.
9. Accordingly, the appeal and the application are disposed of.
10. It is needless to mention that in view of the revocation of grant of probate, the beneficiary shall not be entitled to rely on the grant of probate in any pending or future proceeding.
11. However, there shall be no order as to costs.
12. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Soumen Sen, J.)

(Apurba Sinha Ray, J.)