

Form No. J(2)

In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side

Present: The Hon'ble Justice Sabyasachi Bhattacharyya
And
The Hon'ble Justice Supratim Bhattacharya

F.A.T 172 of 2025
IA No: CAN 1 of 2025
CAN 2 of 2025

Tapan Majhi
Vs
Soumya Saha and another

For the appellant : Mr. Malay Bhattacharyya

For the respondent : Mr. Ayan Banerjee
Mr. Tarun Kr. Aich

Heard on : 05.01.2026

Judgment on : 05.01.2026

Sabyasachi Bhattacharyya, J.:-

1. The affidavit-of-service filed in court today be kept on record.
2. The present application is one for condonation of the delay of about 432 days in preferring the appeal.
3. The appeal has been preferred against an eviction decree.
4. Learned counsel for the appellant submits that the appellant is an illiterate person and is not aware of the nuances of law and

as such, only upon being informed of the execution case, took steps for preferring the present appeal.

5. Learned counsel appearing for the decree-holders/respondents submits that no explanation whatsoever has been given in the application for condonation of delay for the prolonged delay in preferring the appeal.
6. Secondly, it is argued that the appellant has suppressed in the condonation application that the appellant had entered appearance in the suit and thereafter did not contest the same.
7. Thus, it is submitted that the appellant all along had knowledge of the pendency of the suit.
8. On a perusal of the application, we find that it has been suppressed that the appellant had appeared in the suit and as such it was within the knowledge of the appellant that the suit was pending.
9. Despite the same, we do not find any iota of pleading as to how the appellant was diligent in pursuing the suit.
10. Even apart from the suppression of such material fact of the appellant having entered appearance in the suit and having knowledge of the same, we find precious nothing in the application by way of explanation for the long delay in preferring the same.

- 11.** Also, we see from the affidavit supporting the application for condonation of delay that the appellant has signed the same and, as such, cannot be said to be illiterate as such.
- 12.** Be that as it may, since no explanation whatsoever has been given for the prolonged delay in preferring the appeal, we are unable to condone the delay in filing the appeal.
- 13.** Accordingly, CAN 1 of 2025 is dismissed on contest without any order as to costs.
- 14.** Consequentially, FAT 172 of 2025 is dismissed as time-barred.
- 15.** As a necessary consequence, CAN 2 of 2025 is also dismissed without any order as to costs.
- 16.** A formal decree be drawn up accordingly.
- 17.** Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)

I agree.

(Supratim Bhattacharya, J.)