

AD-28
Ct No.16
22.06.2026
TN

FMAT 134 of 2026
IA No: CAN 1 of 2026
CAN 2 of 2026

Balgopal Commercial Limited
Vs.
Pannalal Bengani and others

Mr. Sakabda Roy,
Mr. Prasanta Sharma

..... for the appellant

Mr. Rittick Chowdhury,
Mr. Debajyoti Mondal

.....for the respondent nos. 1-4

Mr. Prasanta Naskar

.....for the respondent no.5

1. The affidavit-of-service filed today be kept on record.
2. The premise on which the condonation application has been filed is primarily that the appellant was not properly advised that an appeal could be preferred, on certain salient grounds which are available to the appellant in law, against the impugned order.
3. Learned counsel for the appellant submits candidly that the appellant is contesting diligently the injunction application in the Trial Court by filing a written objection thereto but a delay has been occasioned due to the above reason in preferring the present appeal against the original ad interim order of injunction.
4. It is submitted that a subsequent appeal has been preferred against an order of extension of the original ad interim order, which is impugned in the present appeal, bearing FMAT 196 of 2026.

5. However, in view of the appellant having already participated in the suit and contested the injunction application in the Trial Court by filing a written objection, mere erroneous legal advice cannot be construed to be a sufficient reason for not preferring an appeal at the first instance within the limitation period if the appellant was so aggrieved by the impugned order.
6. Since the appellant has already filed a written objection in the Trial Court to the injunction application and both the principal defendants, being the appellant herein and the respondent no.5, are represented through counsel before us, no useful purpose would be served in condoning the delay and entertaining the appeal at such a belated stage, when the temporary injunction application filed before the Trial Court is already ripe for final hearing.
7. Insofar as proforma defendant/respondent no.6 is concerned, since the said defendant has been arrayed as proforma defendant in the suit itself and no substantive relief has been sought against him, service of copy of the temporary injunction application filed in the Trial Court be deemed to stand dispensed with on the proforma respondent no.6.
8. The learned Trial Judge will be at liberty to decide the temporary injunction application without awaiting further service on the proforma defendant/respondent no.6 – Ashok Kumar Agarwala.

9. Since the temporary injunction application is otherwise ready for hearing before the Trial Court, it is expected that the learned Trial Judge shall decide the same finally within four weeks from the date of communication of this order to the learned Trial Judge, acting on a server copy of this order and without insisting upon prior production of a certified copy thereof.
10. CAN 2 of 2026 is dismissed with the above observations, without any order as to costs.
11. Consequentially, FMAT 134 of 2026 and CAN 1 of 2026 are also dismissed.
12. However, it is made clear that nothing in this order shall influence the learned Trial Judge while deciding the temporary injunction application, which will be adjudicated independently, on its own merits and in accordance with law.
13. There will be no order as to costs.

(Sabyasachi Bhattacharyya, J.)

(Supratim Bhattacharya, J.)