

D/L.42.
February 24, 2026.
MNS.

FAT No. 480 of 2025

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CAN 1 of 2026

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CAN 2 of 2026

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CAN 3 of 2026

Sri Goutam Pal and others

Vs.

Sri Anupam Pal and others

Mr. Partha Pratim Roy,
Mr. T. J. Mandal,
Ms. Somashree Dey,
Ms. Swastika Roy

... for the appellants.

Mr. Amal Krishna Saha,
Mr. Ejaz Khan,
Mr. Pradip Kumar De,
Mr. Debnath Mahata

...for the respondent nos. 1 to 3.

Re : CAN 2 of 2026 (condonation)

1. The documents filed in Court today by the respondents be kept on record.
2. The present appeal has been preferred against the ex parte final decree of partition dated July 10, 1997, passed in Title Suit No. 163 of 1990, in which the mother of the present appellants was a party.
3. Learned counsel for the appellants argues that the appellants did not know about the said decree prior to June 20, 2023, when for the first time it came to the knowledge of the appellants about the existence of the said previous decree when an execution case was levied

in respect of the said decree by the respondents/decreed-holders.

4. It is contended by the appellants that thereafter they filed Title Suit No. 323 of 2023 challenging the said partition decree on the ground of fraud, the plaint of which was rejected by a deemed decree dated November 27, 2024.

5. Thereafter, after waiting for about 4-5 months, the present appeal was preferred.

6. Learned counsel appearing for the respondents hands over photocopies of the order sheet of Title Execution Case No. 04 of 2013, indicating that the execution case in respect of the *ex parte* decree dated July 10, 1997 was levied as long back as in the year 2013 and not 2023, as has wrongly been alleged by the appellants.

7. Secondly, a copy of an application under Section 47 of the Code of Civil Procedure filed by Nilima Pal, the predecessor-in-interest of the present appellants, is also handed over.

8. Thus, it is contended that Nilima Pal had full knowledge of the execution case as well as the impugned decree at least in the year 2014, when the application under Section 47, bearing Judicial Miscellaneous Case No. 44 of 2014, was filed.

9. Even otherwise, since an *ex parte* decree was passed against Nilima Pal, in whose shoes the present appellants have stepped into on her demise in the year

2018, the presumption, unless rebutted, is that official and judicial works are done properly; as such, the passing of the *ex parte* decree itself indicates that due notice was served on Nilima Pal, the predecessor-in-interest of the present appellants.

10. Even thereafter, the said Nilima Pal appeared in the connected execution proceeding and filed an application under Section 47 of the Code of Civil Procedure as long back as in the year 2014. The entire developments, as indicated above, have been suppressed in the present condonation application by averring that the execution case in connection with the impugned decree was levied in the year 2023; whereas the same was actually filed in the year 2013, giving rise to Execution Case No. 04 of 2013.

11. Thus, the inordinate delay of about seventeen years in preferring the present appeal remains completely unexplained by the appellants.

12. Apart from the gross negligence exhibited by the appellants as well as their predecessor-in-interest Nilima Pal, in whose shoes the appellants have stepped into, in view of the misstatement made in paragraph no. 10 of the present condonation application to the effect that the execution case was filed only in the year 2023 wherefrom the appellants first derived knowledge of the *ex parte* decree, whereas it was actually filed in the year 2013, the appellants are not entitled to any relief in the condonation application.

13. Also, during long seventeen years, valuable rights have accrued in favour of the respondents, which cannot be taken away at the drop of a hat merely for the asking.

14. In view of the above, CAN 2 of 2026 is dismissed on contest, with costs of Rs. 10,000/- to be paid by the appellants to the respondents through their learned Advocate-on-record appearing in this Court, due to the harassment caused to the respondents by filing the present appeal.

15. Consequentially, FAT No. 480 of 2025 is dismissed as time-barred.

16. All other applications, bearing CAN 1 of 2026 and CAN 3 of 2026, filed in connection with the appeal, are also dismissed accordingly.

(Supratim Bhattacharya, J.) (Sabyasachi Bhattacharyya, J.)