

May 22, 2026
Sl. No.16
Court No.1
s.biswas

MAT 849 of 2026
With
CAN 1 of 2026
CAN 2 of 2026
CAN 3 of 2026

Rabiul Islam and another
vs.
Aditya Birla Housing Finance Limited
and others

Mr. Kamalesh Bhattacharya
Mr. Shahan Shah
Mr. Sk. Abumusa
Mr. Soumen Barman

... for the appellants

Mr. Subhankar Nag
Mr. Avishek Guha
Ms. Sonal Agarwal

... for the respondents

Dictated by Sujoy Paul, C.J.

1. Affidavit of service filed by the appellants
is taken on record.

In re: CAN 1 of 2026

2. This is an application for leave to prefer
the instant appeal.
3. It is submitted on behalf of the appellant
that this application has been filed since
the appellant is not a party to the writ
petition before the learned Single Judge
and the order impugned is directly
affecting the present appellant.

4. The said prayer is however opposed by learned counsel for the respondents secured creditor.
5. On careful consideration of the entire materials as placed before this court and after hearing the contending parties, we find sufficient justification in the instant application. Accordingly, prayer is allowed.
6. Consequently, leave is granted to the appellant to file instant appeal.
7. With the aforesaid observation, CAN 1 of 2026 is **disposed of**.

In re: CAN 2 of 2026

8. This is an application filed under Section 5 of the Limitation Act for condonation of delay of 72 days in filing the instant appeal.
9. On perusal of the application and after hearing the learned counsel for the parties, we are satisfied that the appellant is successful in explaining 72 days delay in filing the instant appeal.

10. Accordingly, the delay in filing the instant appeal is hereby condoned.

11. Consequently, the application under Section 5 of the Limitation Act is hereby allowed and accordingly, CAN 2 of 2026 is **disposed of.**

In re: MAT 849 of 2026

12. Mr. Kamalesh Bhattacharya, learned counsel for the appellants and Mr. Subhankar Nag, learned counsel for the respondents, are present. With the consent of the parties, the matter is finally heard.

13. During the course of hearing, learned counsel for the parties reached to a consensus. It is agreed that the learned Single Judge has passed the impugned order dated 29th January, 2026 in WPA 29316 of 2025 for the purpose of granting protection to the secured creditor in relation to possession on the property. Learned counsel for the appellant submits that he is only concerned with taking out of his movable property which is there in

the premises in question and for that learned DRT has also passed an order dated 12.09.2024 in SA 285 of 2024. However, he could not take out the movable property from the said premises.

14.Learned counsel for the secured creditor informs that the reason for not providing the movable property to the appellant has been informed to him by communication dated 19th March, 2025.

15.In the opinion of this court, SA 285 of 2024 is pending consideration before the Tribunal and the appellant can file appropriate application before the Tribunal in the said pending matter seeking appropriate direction to ensure that movable property is handed over to him.

16.Although learned counsel for the secured creditor informed that the property has been stolen, we are inclined to hold that this aspect can be gone into by the learned DRT in the said pending matter.

17. Parties agreed that if appellant files such an application before the DRT for appropriate direction for handing over the property, the Tribunal may consider and decide it in accordance with law by taking into account the stand taken by both the sides and without getting influenced by the impugned order of learned Single Judge passed in WPA 29316 of 2025.

18. Accordingly, this appeal is disposed of by reserving liberty to the appellant to file appropriate application before the learned DRT for the said purpose. In that event, the Tribunal shall consider and decide the application in accordance with law by hearing both the parties.

19. It is made clear that for the purpose of deciding return of movable property, the impugned order of learned Single Judge dated 29th January, 2026 will not come in the way of appellant.

20. With the aforesaid and without expressing any opinion on merits, the appeal is **disposed of.**

21. With the disposal of the instant appeal, the pending interlocutory application being CAN 3 of 2026 is also **disposed of**.

(Sujoy Paul, C.J.)

(Partha Sarathi Sen, J.)