

10th January,
2026
(AK)
27

F.A.T 222 of 2025
IA No: CAN 1 of 2025
CAN 2 of 2025

Smt. Mamata Rani Bairagy and another
Vs.
Krishna Pada Majumder and others

Mr. Sabyasachi Chatterjee
Mr. Rameshwar Sinha
...for the appellants.

Mr. Lutful Haque
Mr. Moniruzzamam
...for the respondent no.1/plaintiff.

1. Affidavit-of-service filed in court today be kept on record.
2. Despite service, the learned erstwhile Advocate of the appellants, on whom the entire blame has been sought to be cast by the appellants for the delay, does not appear.
3. Heard learned counsel for the parties.
4. The only explanation in the condonation application for the huge delay of about 790 days is that the learned Advocate then appearing for the appellants in the trial court had missed the date and was not able to appear at the time of hearing

and that the delay was caused due to the laches of the said learned Advocate.

5. However, we do not find any whisper within the four corners of the application as to what steps the appellants themselves were taking for enquiring about the suit during the entire period of pendency of the same.
6. A photocopy of the order sheet of the entire orders passed in connection with the suit has also been annexed to the condonation application.
7. We find therefrom that the appellants are habitual defaulters.
8. On numerous occasions, adjournments were sought on behalf of the appellants in the trial court.
9. After having initially entered appearance in the suit, the appellants chose not to appear, due to which an *ex parte* preliminary decree was passed in the suit.
10. Even after taking out an application under Order IX Rule 13 of the Code of Civil Procedure, registered as Miscellaneous Case No.37 of 2012, numerous adjournments were sought by the present appellants in connection with the said matter.

11. Ultimately, the miscellaneous case was also dismissed for default vide Order No.40 dated June 29, 2015.
12. Even thereafter, the defendants/appellants were repeatedly absent at the final decree proceeding stage.
13. Since adjournments had been sought on several occasions on behalf of the defendants/appellants in the trial court, it cannot be said that the learned Advocate appearing for the appellants in the trial court lacked diligence.
14. Rather, it is the utter apathy of the appellants in not enquiring about or looking after the suit throughout the relevant period which led to the suit being decreed ex parte and is evidently the cause of the delay in preferring the present appeal as well.
15. Since the said conduct of the appellants is self-explanatory, the appellants having abstained from contesting the suit at every stage of the matter, we do not find any *bona fides* on the part of the appellants in preferring the appeal late.
16. That apart, the delay of 790 days in preferring the appeal is substantive and since valuable rights have accrued in favour of the respondents in the

interregnum, we are unable to condone the delay in preferring the present appeal.

17. Accordingly, CAN 1 of 2025 is dismissed on contest without any order as to costs.
18. Consequentially, FAT 222 of 2025 is dismissed as time-barred. Resultantly, CAN 2 of 2025 is also dismissed.
19. Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)

(Supratim Bhattacharya, J.)