

10.06.2026.
Court No.13
Item No. 8
ap

F.A. No. 101 of 2022
With
I.A. No. CAN 3 of 2026
And
I.A. No. CAN 4 of 2026

Sk. Yusuf & Ors.
Versus
Sirajul Sk. & Ors.

Mr. Prantik Sarkar,
Ms. Moumita Dhar.

...For the appellants.

Mr. Z. Rahaman,
Mr. Golam Karim Chowdhury.

...For the respondent nos.1, 3 & 4.

Re: CAN 4 of 2026 (Condonation of delay)

1. Affidavit-of-service filed in Court today be taken on record.
2. This is an application filed under Section 5 of the Limitation Act, 1963 for condonation of delay of about 155 days in filing CAN 3 of 2026.
3. The explanation given for the delay are poor financial condition of the appellants and are being illiterate. The change of Advocate has also occurred after inability being expressed by their Advocate-on-record of the appellants to take steps in the matter.
4. Having heard the learned Advocate appearing on behalf of the appellants as also considering the statements made in the said application, this Court is satisfied with the grounds indicated therein, as sufficiently explaining delay of 155 days in filing CAN 3 of 2026.

5. In view of the above, the application for condonation of delay being CAN 4 of 2026 is allowed and disposed of.

6. There will be no order as to costs.

Re: CAN 3 of 2026 (Restoration)

7. Sufficient grounds are not available to explain the absence of the appellants and/or their Counsel on 25th August, 2025 before a Co-ordinate Bench of this Court.

8. The said order is recalled and the appeal is restored to its original file and number.

9. Accordingly, CAN 3 of 2026 is disposed of.

10. There will be no order as to costs.

Re: FA 101 of 2022

11. The subject appeal is directed against the judgment and decree dated 27th March, 2019 passed by the learned Civil Judge (Senior Division), Katwa, Purba Bardhaman in Title Suit No. 116 of 2003.

12. The plaintiffs and the defendants in the suit had a common ancestor called Talukdar Sk. The plaintiffs filed a suit seeking partition claiming to be a co-sharers in the suit property that devolved from such common ancestor.

13. The defendants contested the suit by filing written statement, inter alia, claiming that the properties of Talukdar Sk. were already partitioned in the year 1962. In support of such previous partition, both parties exhibited R.S.R.O.R Records. The said

R.S.R.O.R. indicated that the properties of Talukdar Sk. were duly partitioned and divided amongst his immediate legal heirs. The R.S.R.O.R. further recorded that suit Plot No. 508 except for a small portion already stood settled in favour of Sovan Sk. and Mastura Bibi. The defendants produced and exhibited an earlier Deed of Sale by the predecessor-in-interest of the plaintiffs wherein it was admitted that the properties of Talukdar Sk. were partitioned.

14. The defendants claimed right in the entire suit property as successors-in-interest of the said Sovan Sk. and Mastura Bibi.

15. The Trial Judge had rightly relied upon the proposition of law that, while it is true that the R.S.R.O.R. entries are not clear evidence of title but the same can be taken prima facie true unless the contrary is proved. Several decisions of the Hon'ble Supreme Court of India and this Court have been rightly relied upon in that regard.

16. It further transpires from the findings of the Trial Court that the plaintiffs and/or their predecessor-in-interest had already received certain portions of the properties of Talukdar Sk. that were not the subject matter of the partition suit.

17. In the light of the findings of the Trial Court, that have been briefly discussed hereinabove, this Court is of the unequivocal view that the plaintiffs/appellants and/or their predecessor-in-

interest could not have been the co-sharers in the properties of Late Talukdar Sk. There was an earlier partition of the year 1968 that was effected by and between the parties and acted upon.

18. In light of the above, this Court has no reason to interfere with the impugned judgment and decree dated 27th March, 2019. The same is upheld.

19. F.A. 101 of 2022 shall stand dismissed.

20. There will be no order as to costs.

21. T.C.R., if any, be returned to the Court below.

22. The Registry of this Court shall communicate a copy of this order to the Court below for necessary information.

23. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Rai Chattopadhyay, J.)