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ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

APDT/5/2025
With CS/321/2004
IA No. GA/1/2025

NEMAI CHANDRA GHOSH
-Vs-
C E S C LTD AND ORS.

BEFORE:

The Hon'ble JUSTICE DEBANGSU BASAK

-AND-

The Hon'ble JUSTICE MD. SHABBAR RASHIDI

Date: February 13, 2026.

Appearance:

Mr. Aditya Roy, Adv.
Mr. Arindam Paul, Adv.
Ms. Debarati Das, Adv.
Ms. Sohini Choudhury, Adv.
...for the appellant

Ms. Vaibhavi Pandey, Adv.
Ms. Tiasha Gupta, Adv.
...for the respondent

The Court : Appellant seeks to prefer an appeal from a decree dismissing a suit on the ground of limitation.

Affidavit-in-opposition filed to the application for stay including prayer for condonation of delay be taken on record.

Department reports a delay of 403 days in making and filing the appeal.

Condonation of delay is sought on the grounds that, the appellant suffered an assault in the year 2003; financial condition of the appellant did

not permit the appellant to file the appeal within time; the appellant was suffering from terminal illness, therefore, could not file the appeal within time and there was a delay in obtaining the certified copy.

We find from the records that, the impugned judgment and decree is dated September 21, 2023. Event of assault was of 2003. Therefore, the question of condonation of delay in preferring the appeal on the ground of event of assault of 2003 does not arise.

So far as terminal illness is concerned, there is no medical evidence made available to us to sustain such claim. We find three medical certificates annexed to the application. Two of the medical certificates are dated December 8, 2024 and other one is January 15, 2025.

As noted above, the decree is dated September 21, 2023. Therefore, these medical certificates do not cover the period of limitation in its entirety.

Nature of terminal illness as claimed by the appellant is not pleaded in the petition. Medical certificates referred to in the previous paragraph do not specify any terminal illness of the appellant.

There is no evidence with regard to the alleged financial incapacity of the appellant.

There is no explanation as to why there was a delay in obtaining the certified copy as claimed by the appellant.

Even taking into account the delay in obtaining the certified copy, then also, the delay is of 403 days which remains unexplained.

We remind ourselves that, while considering an application for condonation of delay we are required to be lenient and accept any plausible cause shown. At the same time, it is trite law, that the exercise of

condonation of delay should not be stretched to such extent so as to cause prejudice to the other party and render the exercise in itself nugatory. In other words, any and every explanation can and must not be accepted. Any explanation which is plausible should be accepted.

In the facts and circumstances of the present case, the appellant did not offer any explanation which can be classified as plausible.

We are, therefore, unable to condone the delay in making and filing the appeal.

APDT/5/2025 along with IA No. GA/1/2025 is dismissed without any order as to costs.

(DEBANGSU BASAK, J.)

(MD. SHABBAR RASHIDI, J.)