

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Sabyasachi Bhattacharyya

And

The Hon'ble Justice Uday Kumar

**FA No. 273 of 2016
with
CAN 4 of 2022**

Haldiram Limited

Vs.

**Kolkata Metropolitan Development
Authority and Others**

For the Appellant : Mrs. Manju Agarwal, Ld. Sr. Adv.
Ms. Anju Manot,
Ms. Rishi Agarwal,
Ms. Hritashree Biswas

For the Respondent/KMDA : Mr. Sirsanya Bandyopadhyay,
Ld. Sr. Standing Counsel
Mr. Satyajit Talukdar
Mr. Arindam Chatterjee

Heard on : 17.06.2025, 18.06.2025, 26.06.2025,
03.07.2025, 10.07.2025, 14.07.2025

Judgment on : 21.08. 2025.

Uday Kumar, J.: -

1. The first appeal itself is taken up for hearing along with CAN 4 of 2022, an application for mandatory injunction directing the respondent to reconstruct the showroom of appellant after dismantling the boundary wall erected in the said shop, and to pay Rs. 2 crore 92 lakh and 29 thousand in compensation suffered due to loss of material equipment

and other charges, injunction to restrain the respondent from interfering and or causing obstruction, disturbances in the peaceful possession of the petitioner in respect of Plot No. C-5 and interim orders.

2. This appeal, preferred by Haldiram Limited (the appellant), a company incorporated under the provisions of the Companies Act, 1956, challenges the judgment and decree dated December 22, 2014, passed by the Learned 5th Judge (Senior Division), Alipore. The trial court dismissed the appellant's suit, which sought to declare the allotment orders dated March 6 and 7, 2003 valid and binding, to declare the termination order dated January 8, 2008 illegal, and to obtain a perpetual injunction restraining the respondent/defendant from interfering with its rights.
3. The legal dispute between the appellant and the Kolkata Metropolitan Development Authority (KMDA), revolves around the termination of a licence for a commercial plot issued to it by the process of tender.
4. The factual matrix of this case is largely undisputed. On January 10, 2003, the Kolkata Metropolitan Development Authority (KMDA) issued a Notice Inviting Tender (NIT) for a plot of land measuring 121.903-cottah situated in East Kolkata, opposite to Ruby General Hospital on the Eastern Metropolitan Bye-Pass, for the institutional/commercial/mixed-use purposes, offering it on a 99-year leasehold basis with an option of subleasing. The appellant was declared the successful bidder on January 24, 2003 and, in compliance with the tender, deposited the full premium.

5. Subsequent discussions revealed that KMDA's title to the land was not clear. Accordingly, KMDA executed an interim "Deed of Licence" on March 22, 2003 in favour of the appellant. This deed, crucially, contained Clause 7(iv), which explicitly stated that a 99-year lease would be granted to the appellant upon KMDA's acquisition of a clear title. The appellant took possession and initiated construction-related activities.
6. The appellant alleges that its efforts were stalled by KMDA's failures, including a delay in providing a revised site plan and its failure to clear pre-allotment municipal tax arrears. Despite these impediments, KMDA issued a show-cause notice on December 31, 2007, citing construction delays.
7. The appellant argues that it submitted a detailed response on January 8, 2008, attributing the delays to KMDA's own inactions. However, KMDA terminated the license on the same day, without considering the response of appellant. Later, it offered a partial refund of Rs.7.48 crores, ignoring Haldiram's substantial additional investments of over Rs.3 crores. This action triggered Haldiram to bring the present litigation, being Title Suit 90 of 2009.
8. Mrs. Manju Agarwal, Learned counsel for the appellant contends that the Trial Court, in its judgment dated December 22, 2014, erroneously upheld KMDA's termination order. The court interpreted the License Deed as a standalone contract, incorrectly concluding that time was of the essence, and that the appellant had defaulted in adhering to the clauses of the License Deed while ignoring the overwhelming evidence of

KMDA's contributory delays. The learned trial Judge specifically relied on alleged breaches of Clauses 5(iv) and 5(xiii) that were not cited in the show-cause notice and accepted the testimony of the KMDA witnesses who admittedly lacked personal knowledge. The appellant challenges the impugned judgment on the ground that the learned trial court has erroneously interpreted the contractual documents, failure to acknowledge reciprocal obligations and the violation of natural justice and arbitrariness on misapplication of legal precedents and by overlooking equitable principles.

9. Mrs. Agarwal, the learned Senior Advocate for the appellant, presented a multi-faceted argument challenging the trial court's judgment by contending that its interpretation of the contractual documents was fundamentally flawed. She argued that the trial court failed to consider the Notice Inviting Tender (NIT) and the Allotment Letter in conjunction with the Deed of License, which she maintained was merely an interim arrangement for a 99-year leasehold interest. This intent, she submitted, is evidenced by the substantial premium of over ₹8 crore paid by Haldiram and Clause 7(iv) of the deed itself. Relying on *Associated Hotels of India Ltd. v. R.N. Kapoor*, reported at AIR 1959 SC 1262, she asserted that the court must look beyond a document's nomenclature to determine the true intent of the parties.
10. Therefore, she concluded that this constituted a clear case of promissory estoppel, as Haldiram acted in good faith based on KMDA's representation, and it would be unjust to allow a public authority,

bound by principles of fairness and non-arbitrariness under Article 14 of the Constitution, to renege on its promise.

- 11.** Furthermore, the finding that "time was of the essence" was a misapplication of law, as per *Saradamani Kandappan v. S. Rajalakshmi and others, reported at (2011) 12 SCC 18*. Lastly, she pointed out that the trial court's judgment was based on inadmissible evidence from witnesses who lacked personal knowledge, in violation of Section 60 of the Indian Evidence Act, 1872.
- 12.** She argued that the doctrine of promissory estoppel should apply. She asserted that Haldiram acted in good faith of representation of granting a 99-year lease by KMDA's, and it would be unjust to allow the public authority to renege on its promise after Haldiram made significant financial investments. The Kolkata Metropolitan Development Authority (KMDA) should be held to its promise of a 99-year lease. The termination was arbitrary and violated the principles of fairness, non-arbitrariness, natural justice and Article 14 of the Constitution of India, as evidenced by a defective show-cause notice that failed to specify the breaches relied upon by the trial court.
- 13.** Mrs. Agarwal argued that the termination of license was procedurally flawed and arbitrary. The show-cause notice was defective as it failed to mention specific breaches [e.g., under Clauses 5(iv) and 5(xiii)] upon which the trial court heavily relied. The abrupt termination on the same day as the appellant's detailed reply demonstrated a predetermined and arbitrary course of action, in violation of natural justice and Article 14.

She cited *Dwarkadas Marfatia & Sons vs. Board of Trustees of the Port of Bombay*, reported at (1989) 3 SCC 293 and *Mahabir Auto Stores & Ors. vs. Indian Oil Corporation & Ors.*, reported at (1990) 3 SCC 752, to support the contention that every action of a public authority, even in contractual matters, must be "informed by reason" and cannot be discriminatory or unfair. Public authorities are bound to act fairly, as held in *Tata Cellular v. Union of India*.

14. Regarding the contractual obligations, Mrs. Agarwal submitted that the delays were a direct consequence of KMDA's own negligence and failures — specifically, the inability to clear the land title and settle municipal tax arrears. KMDA's failure to perform its reciprocal promises, she argued, excuses the appellant from strict compliance, as per Section 55 of the Indian Contract Act, 1872. KMDA cannot be allowed to benefit from its own wrong by terminating the agreement on grounds it created. The trial court's finding that "time is of the essence" was a misapplication of legal principles, as contracts for immovable property are not presumed to have time as an essential condition unless unequivocally stipulated, as established in *Saradamani Kandappan (supra)*. KMDA's own delays demonstrated that neither party treated the construction deadline as inviolable.

15. Finally, Mrs. Agarwal pointed out that the trial court's judgment was based on unreliable evidence. The testimony of KMDA's witnesses (D.W.1 and D.W.2) was inadmissible, as they admitted to lack personal

knowledge of key facts, a direct violation of Section 60 of the Indian Evidence Act, 1872, which mandates that oral evidence must be direct.

16. She relied on the ratio decided in Paragraphs 21, 22, 27 of *Dwarkadas Marfatia & Sons (supra)*, and Paragraphs 12, 13 of *Mahabir Auto Stores & Ors. (supra)*, in support of her contention that every action of a public authority must be "informed by reason and that the terms of a contract, such as an insurance policy, are binding on the parties.
17. Conversely, Mr. Sirsanya Bandyopadhyay, learned Senior Standing Counsel, defended the trial court's judgment, asserting that the termination was a lawful and justified.
18. He argued that the Deed of Licence was a separate and distinct legal document that superseded the NIT. He highlighted the fundamental legal distinction between a lease and a licence, citing *Chandu Lal Etc. vs. Municipal Corporation of Delhi* (paragraphs 15, 22, 24, 25, and 26), and argued that a licence is a terminable agreement. He stated that by voluntarily executing this deed, Haldiram became bound by its specific terms, including the three-year construction timeline, making any claims based on the NIT redundant.
19. He contended that the three-year construction timeline was a mandatory condition, and Haldiram's failure constituted a gross breach, as supported by *Indu Kakkar vs. Haryana State Industrial Development Corporation Ltd., reported at (1999) 2 SCC 37* (paragraph 17) which holds that contractual obligations must be strictly adhered to. Mr. Bandyopadhyay asserted that KMDA's actions in this purely contractual

matter were not subject to judicial review under Article 14. By citing *M/s. Radhakrishna Agarwal & Ors. vs. State of Bihar & Ors.*, reported at AIR 1977 SC 1496 (paragraphs 9 and 12), he emphasized the established distinction between the state's sovereign/statutory functions and its commercial functions. In the latter, the state is governed by private law, and any dispute is a matter for civil remedy, not constitutional law. He maintained that the project stalled due to the appellant's own inaction and that the termination was a lawful and justified act. He also denied any external obstructions, stating that the project stalled due to the appellant's own inaction and belated applications for necessary permissions. Haldiram's failure to either initiate the project or seek timely extensions demonstrated its gross negligence and inability to complete the project, which justified KMDA's termination of the license.

- 20.** Learned counsel cited paragraphs 15, 22, 24, 25 and 26 of *Chandu Lal Etc. vs. Municipal Corporation of Delhi*, reported at ILR (1978) I Delhi 292 for the ratio that a licensee does not possess the same rights as a lessee.
- 21.** Learned Counsel further cited paragraphs 17 of *Indu Kakkar (supra)*, for the proposition that contractual obligations must be strictly adhered to, and paragraphs 19 and 24 of *Ploymat India (P) Ltd. & Anr. vs. National Insurance Co. Ltd. & Ors.*, reported at (2005) 9 SCC 174, in support of the argument that the terms of a contract, such as an insurance policy, are binding on the parties. Paragraph – 15 of *Bhagat Ram & Anr. vs. Suresh & Ors.*, reported at (2003) 12 SCC 35, is relied on for the

importance of scrupulous adherence to statutory provisions in legal instruments.

22. Finally, learned counsel for the respondent concluded that the termination was a justified response to the appellant's clear breach of the mandatory terms of the license agreement and its gross negligence in failing to complete the project. The trial court rightly dismissed the suit, it is argued, and the impugned judgment of the trial court deserves to be upheld, as it is proper and well-reasoned. Therefore, he prays for dismissal of the appeal.

23. We have meticulously considered the arguments presented by both the appellant and the respondent and have carefully assessed the records of the trial court. The following questions need to be determined for the adjudication of this appeal.

- a. Was the Deed of Licence a standalone contract or an interim arrangement for a 99-year lease?
- b. Was KMDA's termination of the agreement procedurally sound and lawful, considering its own alleged failures and the principles of natural justice?
- c. Did the trial court's judgment rely on legally tenable evidence?
- d. What is the appropriate remedy, if any, for the appellant?

- 24.** The central issue to be determined is the true nature of the agreement between the parties and whether the termination of that agreement by the KMDA was lawful and justified.
- 25.** The appellant's primary contention that the Deed of Licence was merely a "stop-gap arrangement" for an intended 99-year lease is, in our view, wholly unsustainable. While we acknowledge the principle established in *Associated Hotels of India Ltd. (supra)* that the court must look beyond the nomenclature to ascertain the parties' true intention, this principle cannot be applied to absolve an admittedly commercial entity from the consequences of a document it willingly and knowingly executed to enter into a purely commercial transaction. The Deed of Licence dated May 22, 2003 became the final and binding contract governing the jural relationship between the parties. The appellant's claim that the NIT's terms remained paramount is untenable; the execution of the new deed, which explicitly defines the arrangement as a licence, effectively superseded the initial tender. The principle of estoppel prevents the appellant from questioning the validity and nature of a deed executed without protest.
- 26.** The appellant's reliance on *Chandu Lal Etc. (supra)* (paragraphs 15, 22, 24, 25, and 26) supports the distinction between a license and a lease, emphasizing that a license only grants a personal right to use a property and is revocable. While the payment of a substantial premium is a factor to be considered, it does not, in and of itself, convert a licence into a lease when the final, executed contract clearly states otherwise.

- 27.** In the present case, external aids of construction need not be resorted to in view of the clear language of the deed itself, which specifically enumerated that the license was being given “for the time being”, to set up a Supermarket cum Food processing unit along with residential facility for company management and staff and also [in Clause 5 (iii)] that the construction was to be completed at the own cost of the licensee within three years from the date of commencement of the license, that is, from May 22, 2003. It was also stipulated in Clause 7 (i) thereof that if there be any breach of any covenant on the licensee’s part contained in the deed and to be performed or observed by the licensee, it shall be lawful for the Authority at any time thereafter to re-enter upon the land after determining the license.
- 28.** Thus, the nature of the jural relationship created between the parties was clearly a license for the specific purpose of user in a particular manner – being the setting up and running of a food manufacturing factory and outlet – and the license deed did not purport to create any right, title or interest on the land as such.
- 29.** Also, the clear mention in the deed of the intention of the respondent to grant a lease later further underscored the fact that it was a license, and not a lease which was being created *in praesenti*.
- 30.** Insofar as the claim of the plaintiff/appellant that it was entitled to execution of a lease deed as a matter of right, Clause 7 (iv) of the license deed provided that upon completion of the process of acquisition of the land and the transfer of title to the said land in favour of the Authority

by the State Government, the Authority shall grant and the licensee shall accept a lease of the said land for a period of 99 years commencing from the day, month and year written thereinabove “on the terms and conditions and on such other terms and conditions that may be agreed upon between the parties”.

31. Hence, the grant of such lease was not intended to be automatic, upon acquisition of the land and conferment of title on the Authority, but subject to the agreement between the parties on the terms and conditions and such other terms and conditions of the prospective lease, leaving further scope of negotiation between the parties before coming to a consensus *ad idem* on the terms of such prospective lease deed.

32. Hence, no right accrued in favour of the appellant to automatically have a lease deed executed in its favour, since the terms and conditions of such prospective lease were kept open-ended in the license deed itself. Thus, it cannot be said that the license deed embodied a concluded contract to grant a lease deed, for the simple reason that the clauses of the license deed kept it open for the terms of such lease to be further negotiated and stipulated a pre-condition of agreement between the parties on such terms and conditions before the lease could be entered into.

33. Once the appellant, itself a commercial entity, entered into the license deed with its eyes open for a purely commercial and contractual transaction, it could not resile from the deed and revert back to the initial advertisement/tender document, which was not a contract by

itself but culminated and merged into the license deed entered into between the parties. The allotment of the land in favour of the appellant was circumscribed by such license deed, entered into between the parties after such initial allotment.

34. The appellant's case is further flawed on the issue of performance and breach. It is an undisputed fact that the appellant failed to commence construction within the stipulated three-year period. The appellant attributes this delay to KMDA's failure to clear the land title and provide necessary documents. Yet, the evidence reveals a critical omission on the appellant's part: the appellant did not formally raise these issues or seek any extension of time prior to the expiry of the deadline.

35. It is relevant to refer to Clause 5 (iii) of the license deed in this context. It provided that the appellant was to erect, construct and complete the proposed Super Market cum Food processing unit along with residential facility for company management and staff with boundary walls, sewers and drains in accordance with plans, sections and specifications as shall be approved by the appropriate authorities on payments of such fees as required, in accordance with the Building Rules of the Calcutta Municipal Corporation, with the requirement of any Land use and Development Control Regulations of the Authority or the requirements of any other statutory rules and regulations of any local or statutory body framed for the purpose. The said compliances were to be undertaken by the appellant/licensee at its own cost, "within three years from the date" of the license deed *"or within such further time as the Authority may at its*

option allow in writing on sufficient and reasonable grounds". Hence, the time-line of three years was otherwise mandatory, unless further time was allowed by the Authority "at its own option in writing", that too "on sufficient and reasonable grounds". Thus, in the event the time-line of three years for completion of the entire project, for which specific purpose the license was given, was at all to be exceeded, it was completely within the discretion of the Authority to allow such extension, in writing and on sufficient and reasonable grounds being furnished.

- 36.** In the present case, however, not a single extension was sought by the appellant or granted by the Authority in writing, let alone any sufficient or reasonable ground being shown.
- 37.** The very nature of the clauses of the license deed did not permit for any verbal extension, except in writing, and/or any subsequent ratification of the delay in meeting the time-line.
- 38.** The onus was, thus, entirely on the appellant to complete the entire project, upon obtaining the necessary sanctions, plans and permissions from all appropriate authorities at its own cost and risk, within three years. The contract between the parties was of a commercial nature, having its own risks, which the appellant undertook and accepted with its eyes open. Thus, it is not open for the appellant to cite delays in sanctions, etc. post facto to justify exceeding the stipulated time-line.
- 39.** The appellant argues that the delays in obtaining sanction for construction were due to the lack of title of the respondents; however, it

entered into the license deed knowing fully well that the respondents did not have title, and yet took the risk of agreeing to the terms of the license deed. The appellant is a commercial entity of repute by its own admission, and not a minion over which the State would be in a dominating position.

40. This inaction demonstrates a lack of genuine effort to proceed with the project. A diligent party, faced with such impediments, would have formally notified the other party of the challenges and sought a resolution. The appellant's silence is a significant factor that undermines its claim of being "prevented" from performing its duties, Section 55 of the Indian Contract Act, 1872 provides that if a promisor fails to perform its part of the contract within the specified time, where the intention of the parties was that time should be of the essence of the contract, the contract becomes voidable at the instance of the promisee. In view of the license deed conferring an option on the respondent-KMDA to permit or not to permit extension of the stipulated time in case satisfactory reasons being shown, and no such permission having been shown to be sought by the appellant or granted in writing by the respondents as per the license deed, the question of acceptance of belated performance does not arise.

41. Moreover, the project being of a public nature, the same cannot be permitted to be held up forever due to the inability of the appellant to complete the construction, let alone setting up the Supermarket and allied components of the project as per the license deed till date. The

interest of the appellant, a private party, has to give way to public interest, since the land is situated in a prime location of the city having high commercial viability.

- 42.** The deed not only provided that the construction was to be completed within a period of three years; it further clarified the appellant would be permitted to seek extensions if the project was not completed in time, subject to the discretion of the respondent to allow the same. If time was not the essence of the contract, there would be no necessity to seek extension and for the respondent to have an option to refuse such request for extension. Hence, the terms of the license deed themselves clearly indicate that time was indeed the essence of the contract. The appellant, having not sought a single extension, cannot now argue that time was not the essence.
- 43.** Mere delay on the part of the respondent in terminating the contract and taking over possession does not automatically operate as a ratification of the failure of the respondent to complete the project within time. There was no specific consent on the part of the respondent to extend the time-line, nor any specific act of conscious relinquishment of its right to terminate the contract on the breach of its terms to constitute waiver.
- 44.** The trial court's finding that "time was of the essence" is, in such context, a correct legal inference drawn from the materials on record and thus, ought not to be interfered with in appeal.

- 45.** The appellant's prolonged inaction made the completion of the project within a reasonable time-frame an impossibility. Such inaction is evident from the evidence relied on by the appellant itself.
- 46.** As per its own admission, the appellant had placed the building plan before the Municipal Building Committee over a year after the license deed was entered into. Although certain minor compliances such as microwave clearance, obtaining high tension electricity supply and water supply to the premises were obtained, the appellant deposited a sum of Rs. 36,360/- with the West Bengal Pollution Control Board allegedly on February 15, 2006, barely a few months before the expiry of the deadline of three years. Consent for Air and Water Pollution was applied for by the appellant on March 10, 2006. A notice for inspection was issued by the Pollution Control Board on September 11, 2006, that is, six months after expiry of the deadline.
- 47.** As per the appellant, a detailed scrutiny report with regard to the building plan was prepared by the Assistant Executive Engineer only on January 7, 2008.
- 48.** Apart from raising a boundary wall, having a soil test done and going on paying municipal taxes, which were all incumbent upon the appellant to do as per the license deed, almost no substantial progress happened regarding construction of the Supermarket, which was the primary purpose of the grant of license, even long after the expiry of the three-year time-line.

- 49.** The appellant complains of obstruction, hindrances and legal proceedings by third parties as an impediment. However, it was the obligation of the appellant to complete the construction and the land was handed over to the appellant on 'as is where is' basis, which was accepted by the appellant pursuant to the license deed.
- 50.** Clause 5 (ii) of the license deed mandated the appellant to pay all rent, taxes and other impositions for the land and structure, if any constructed. Thus, the plea that the KMDA delayed in payment of arrears of tax cannot be a good defence for the appellant not meeting the deadline stipulated in the licence deed.
- 51.** The appellant also cites the purported delay on the part of the KMDA in handing over the revised site plan on December 17, 2004. Even if it was so, the appellant had ample time thereafter to obtain a proper sanctioned plan and at least start the construction.
- 52.** Non-execution of a lease deed by the respondent-KMDA cannot be an excuse for the appellant not to comply with the deadline stipulated in the license deed at all, since the compliances under the license deed did not hinge on the execution of the lease deed. The allotment of the suit land in favour of the appellant was in the capacity of a licensee and the possession was handed over to it as permissive occupier.
- 53.** The reliance placed by the appellant on the Brochure or the tender document is also misconceived, since the jural relationship between the parties culminated in the license deed and the parties are bound by the terms and conditions thereof. After having entered into the same

consciously, the appellant cannot not resile therefrom and turn the clock back by reverting back to pre-deed documents.

54. The judgments cited by the appellant are distinguishable on the premise that while public bodies must act fairly, they are not obligated to tolerate a breach of contract that negatively impacts public development. As held in *M/s. Radhakrishna Agarwal & Ors. (supra)* (paragraphs 9 and 12), the rights of the parties to the present disputes emanate from the license deed and is, thus, contractual in nature, which are governed by private law, not a public law matter subject to Constitutional scrutiny. The court also finds *Indu Kakkar (supra)* (paragraph 17) to be relevant, as it affirms that a condition to complete construction within a specified period is valid, and the trial court found the appellant in breach of this condition.

55. Furthermore, we must address the appellant's claim that the termination was arbitrary and in violation of Article 14 of the Constitution. While the actions of a public body are indeed subject to judicial scrutiny for fairness, this does not grant the appellant immunity from the consequences of its contractual breach. The contract was for a project intended to serve the public interest, and the appellant's prolonged inaction was detrimental to this purpose. The termination was, therefore, a lawful and justified act based on the appellant's fundamental breach of the Deed of Licence. The argument of arbitrariness, though attractive at first blush, is negated by the appellant's own failures and lack of diligence. The ratio of *Dwarkadas*

Marfatia & Sons (supra) (paragraphs 21, 22, and 27) and *Mahabir Auto Stores & Ors. vs. Indian Oil Corporation & Ors.* (paragraphs 12 and 13), which mandates that a public authority's actions be "informed by reason," must be understood in the context of the specific facts. Here, the reason for termination was the appellant's undisputed failure to perform its contractual obligations.

56. As to the evidentiary basis of the trial court's judgment, while the appellant points to the testimony of D.W.1 and D.W.2 (who admitted to lack personal knowledge), as being in violation of Section 60 of the Indian Evidence Act, 1872. However, the evidence of the said witnesses mostly pertains to documents on record. Since the depositions of the said witnesses are on the basis of the records, mere lack of personal knowledge does not *per se* vitiate the credibility of the same.

57. Moreover, we find that the trial court's conclusion is not based solely on this evidence. The court's primary finding of default rests on the undisputed fact of the appellant's inaction and the expiry of the three-year timeline, which is borne out by the documents exhibited by the appellant itself, and is a matter of record and not dependent on the oral testimony of these witnesses.

58. Therefore, having given our anxious consideration to all the facts and circumstances of the case, we find no error in the judgment and decree of the trial court. The appellant, by its own inaction, breached the terms of the Deed of Licence. The respondent, KMDA, was within its rights to terminate the agreement and protect the public interest.

59. The appeal, bearing F.A. No. 273 of 2016 is, accordingly, dismissed on contest, thereby affirming the impugned judgment and decree dated December 22, 2014 passed by the Learned Civil Judge (Senior Division), Fifth Court at Alipore, District: South 24-Parganas in Title Suit No. 90 of 2009.

60. CAN 4 of 2022 stands consequentially dismissed as well.

61. There shall be no order as to costs.

62. A formal decree be drawn up accordingly.

I Agree

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)