

Form No. J (2)

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

W.P.L.R.T. 62 of 2025

**Dynax Apparel Private Limited represented by its Director Alamgir
Fakir**

vs.

Asgar Ali Laskar & ors.

For the Petitioner : Mr. Kallol Basu, Advocate
Mr. Suman Banerjee, Advocate
Ms. Shreejita Sen, Advocate

For the Respondent
Nos.2, 4, 5 and 6 : Mr. Arup Krishna Das, Advocate

For the State : Md. T. M. Siddiqui, Ld. A.G.P.
Ms. Debdooti Dutta, Advocate

Heard on : 09.06.2025

Judgment on : 09.06.2025

DEBANGSU BASAK, J.:-

1. Writ Petition is directed against an order dated April 25, 2025 passed in O.A. 2793 of 2022 (LRTT) by the West Bengal Land Reforms and Tenancy Tribunal.

2. By the impugned order learned Tribunal modified the order of the Appellate Authority allowing an application for condonation of delay in filing the appeal by 5,576 days. Learned Tribunal imposed costs of Rs.2 Lakhs on the private respondents in modification of the order of the Appellate Authority.
3. Learned advocate appearing for the writ petitioner submits that, both the Appellate Authority as also the learned Tribunal failed to take into consideration the parameters for condonation of delay. In the present case, delay involved is in excess of 15 years. He relies upon **2024 SSC OnLine SC 489 (Union of India and Another versus Jahangir Byramji Jeejeebhoy (D) Through His Lr)** in support of his contention that, the private respondents failed to demonstrate due diligence in conducting the appeal.
4. Learned advocate appearing for the writ petitioner submits that, learned Tribunal accepted that, the private respondents possessed the certified copy of the order impugned before Appellate Authority as would appear from other proceedings in which such certified copy was used. According to him, learned Tribunal having returned the finding that, certified copy of the order impugned before the Appellate Authority was available with the private respondents, the learned Tribunal erred in accepting the order passed by the Appellate Authority condoning the delay in excess of 15 years.

5. Learned advocate appearing for the private respondents draws attention of the Court to the application for condonation of delay filed before the Appellate Authority. He submits that, the delay stands adequately explained.
6. Private respondents herein being aggrieved by an order passed under Section 44(2a) of the West Bengal Estate Acquisition Act, 1953 in *Suo Motu* Case No. 1 of 2000 dated January 6, 2001 sought to prefer an appeal therefrom. The appeal sought to be filed was in 2017.
7. It would be apposite to set out the paragraph-10 from the application for condonation of delay filed before the Appellate Authority on behalf of the private respondents which is as follows:-

“10. That the appellants state that the delay has been caused in preferring the said appeal on the following counts:

(a) On 06.01.2001 the impugned ex parte order was passed in suo motu Case No.1 of 2000 under Section 44(2a) of the West Bengal Estates Acquisition Act, 1953;

(b) Against the said ex-parte order the appellants made representation to the Revenue Officer for withdrawal of same.

(c) In the year 2005 the appellants filed Original Application being O.A. No.1810 of 2005 before the Learned Land Reforms and Tenancy Tribunal challenging said impugned order of the Revenue Officer.

(d) On 7th December 2010 the said O.A. No.1810 of 2005 was disposed of by giving liberty to the appellants to prefer appeal against the impugned ex parte order was passed in suo motu Case No.1 of 2000 under Section 44(2a) of the West Bengal Estates Acquisition Act, 1953;

(e) In the year 2011 pursuant to the said liberty the appellants preferred appeal being Appeal Case No.29 of 2011 which was renumbered as LRA Case No.5 of 2011;

(f) On 19.10.2011 the said appeal was allowed.

(g) Challenging the said order of the appellate authority the respondent no.14 filed original application being O.A. No.3438 of 2011 (LRTT) and on 22.11.2013 the said O.A.No.3438 of 2011 (LRTT) was disposed of giving liberty to the respondents/appellants herein to prefer appeal as per order dated 7th December 2010 passed in O.A. No. 1810 of 2005 directing the BL & LRO to supply certified copy of the order within 15 days from the date.

(h) On 2nd December 2013 the appellants applied for certified copy of the ex parte impugned order passed in suo motu Case No.1 of 2000 under Section 44(2a) of the West Bengal Estates Acquisition Act, 1953 and after lapse of about five years on 10.01.2017 the certified copy of the same was supplied by the BL & LRO;

(i) On 15.02.2017 after obtaining the certified copy of the order the appellants preferred appeal within time i.e. within one month;”

8. The Appellate Authority, considered the explanation for condonation of delay and was pleased to find in favour of the private respondents by the order dated January 8, 2022. By such order, the Appellate Authority condoned the delay of 5, 576 days delay in preferring the appeal. Being aggrieved by the such order, the writ petitioner approached the Tribunal by way of an Original Application being O.A. 2793 of 2022 (LRTT) in which, the impugned order was passed.
9. By the impugned order, learned Tribunal agreed with the findings of the Appellate Authority on the aspect of condonation of delay as returned by the Appellate Authority. Learned Tribunal, however, modified the order dated January 8, 2022 of the Appellate Authority by imposing costs of Rs. 2 Lakh on the private respondents.
10. Court is informed that, the private respondents complied with the order impugned herein and paid the costs imposed which was accepted without prejudice.
11. In the facts and circumstances of the present case, the private respondents sought to prefer an appeal against an order dated January 6, 2001 passed under Section 44(2a) of the Act of 1953 in Suo Motu Case No.1 of 2000. The issue as to the entitlement of the private respondent to prefer an appeal received consideration at least twice before the learned Tribunal, once on December 7, 2010 when by an order of such date, passed in OA 1810 of 2005 the learned Tribunal

permitted the private respondents to prefer the appeal. The second time was on November 22, 2013 when by an order of such date passed in OA 3438 of 2011 (LRTT) by the learned Tribunal, the concerned Block Land and Land Reforms Officer to supply the certified copy of the order dated January 6, 2001. As on November 22, 2013, issue as the certified copy stood rested. Private respondents were to receive the certified copy from the concerned BL & LRO within 15 days of the date of application in terms of such order.

12. Private respondents applied for certified copy on December 2, 2013 and was supplied the certified copy on January 10, 2017. Private respondents filed the appeal on February 15, 2017 well within period of 30 days from the date of receipt of the certified copy.
13. Till November 22, 2013 the private respondents cannot be held guilty of delay. Thereafter they applied for certified copy on December 2, 2013 and received the same on January 10, 2017. These concurrent findings of facts are not established to be perverse by the writ petitioner. Appeal was filed on February 15, 2017.
14. The Appellate Authority considered such aspect of the matter and proceeded to condone the delay. Learned Tribunal also accepting the condonation of delay but imposed cost on the private respondents. View taken by the Appellate Authority is plausible. Although we may not agree with the imposition of costs as awarded by the impugned order,

nonetheless we propose not to interfere with the direction exercised by the learned Tribunal in view of the acceptance thereof by the private respondents.

15. **Jahangir Byramji Jeejeebhoy (D) Through His Lr (Supra)** is of the view that, delay should not be excused as a matter of generosity. It is also of the view that rendering substantial justice is not to cause prejudice to the opposite party. It returned such view after considering various authorities on the subject.
16. In the facts and circumstances of the present case as noted above, right of the private respondents before us stood crystallized on November 22, 2013. By such order, the Tribunal permitted the private respondents to prefer an appeal after the concerned BL & LRO made over the certified copy of the order dated January 6, 2001 to the private respondents. Private respondents applied for certified copy on December 2, 2013 which was made available on January 10, 2017. Appeal was preferred on February 15, 2017. Therefore, in our view, there is no delay on the part of the private respondents in preferring the appeal.
17. It is trite law that the costs are not concerned with the quantum of the delay but with the quality of the explanation.
18. In such circumstances, we do not find any ground to interfere with the order passed by the learned Tribunal.

19. **W.P.L.R.T. 62 of 2025** is **disposed of** accordingly without any order as to costs.

(Debangsu Basak, J.)

20. I agree.

(Md. Shabbar Rashidi, J.)

CHC