

08.07.2025.
Item No. 41.
Court No. 13
ap/AP

M.A.T. No. 913 of 2025
With
I.A. No. CAN 1 of 2025
And
I.A. No. CAN 2 of 2025

Shiv Kumar Mondal & Anr.
Versus
Mathurapur Gram Panchayat & Ors.

Ms. Priyanka Jana,
Mr. Bikramjit Mandal,
Mr. Parimal Sardar.

...For the appellants.

Mr. Biswarup Biswas,
Mr. Kajal Roy.

...For the private respondent no.4.

Re: CAN 2 of 2025 (Condonation of delay)

1. This is an application filed under Section 5 of the Limitation Act, 1963 for condonation of delay of about 69 days in filing the instant appeal.
2. 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 69 days in preferring the appeal.
3. In view of the above, the application for condonation of delay being CAN 2 of 2025 is allowed and disposed of.
4. There will be no order as to costs.

Re: M.A.T. 913 of 2025

5. Affidavit-of-service filed in Court today be taken on record.

6. Let B.D.O. and S.D.O., Manikchak Development Block, Malda be added as party respondents to this proceeding.

7. Leave is granted to the Advocate-on-Record to the appellants to amend the cause title in course of the day.

8. The appellant was a private respondent in the writ petition. The alleged co-sharer of the appellant in allegedly unpartitioned property is stated to have sold his share to the writ petitioner/respondent no.4.

9. There is admittedly a civil suit between the appellant and the writ petitioner being Title Suit No. 12 of 2019 now pending before the learned Civil Judge (Senior Division) 1st Court at Malda. There is an order of status quo passed in the civil suit.

10. It is submitted by the Counsel for the appellant that while it is true that her client if not appear before the learned Single Judge despite notice being served, the order directing enquiry by the Prodhan, is in ex facie violation of the order of status quo passed by the Civil Court.

11. It is further submitted that Prodhan of the concerned Gram Panchayat has recused himself from

the proceedings on 23rd June, 2025 since he claims to be a close relative to one of the parties. Notwithstanding the same, the Pradhan appears to have, on 25th June, 2025 i.e. two days thereafter, informed the Block Development Officer, Manikchak Development Block, Malda that the construction made by the private respondent/appellant is permanent in nature and completely unauthorized and without the sanction plan.

12. This Court is of the clear and unequivocal view that a Civil Suit between two private parties cannot stand in the way of a Statutory proceeding dealing with unauthorized construction.

13. The absence of mention of the Civil Suit in the Writ Court, therefore, could not prejudice the order passed by the Single Bench.

14. In view of the report of the Pradhan, This Court directs the B.D.O. and S.D.O., Manikchak Development Block, Malda to take immediate steps after a fresh enquiry by an independent person, if necessary, in respect of the unauthorized construction, if any, made by the appellants in the suit premises.

15. B.D.O. and S.D.O., Manikchak Development Block, Malda shall complete the process as directed hereinabove within a period of three weeks of communication of a copy of this Court.

16. Therefore, this Court is of the view that the impugned order otherwise calls for no interference.

17. The appeal, is, therefore, disposed of. Consequently, connected pending application being CAN 1 of 2025 is also disposed of.

18. There shall be no order as to costs.

19. The parties shall communicate a copy of this order and the proceedings before the B.D.O. and S.D.O., Manikchak Development Block, Malda to the Civil Court forthwith.

20. Let copy of the supplementary affidavit, which could not be affirmed in view of the inclement weather today, be filed by the private respondent by tomorrow.

21. Copies of the letters dated 23rd June, 2025 and an advance copy of the supplementary affidavit are kept with the record.

22. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)