

Form No.J(2)

IN THE HIGH COURT AT CALCUTTA

Civil Appellate Jurisdiction

Appellate Side

Present : The Hon'ble Mr. Justice Sabyasachi Bhattacharyya
&
The Hon'ble Mr. Justice Uday Kumar

W.P.L.R.T. No. 124 of 2025

Sri Jagannath De

Vs.

The State of West Bengal & Ors.

For the petitioner : Mr. Rajarshi Ghosh, Adv.

For the State : Mr. Sk. Md. Galib, Ld. Sr. Govt. Adv.
Mr. Tamal Taru Panda, Adv.

Heard on : August 14, 2025.

Judgment on : August 14, 2025.

Sabyasachi Bhattacharyya, J.:

1. Heard Mr. Rajarshi Ghosh, learned counsel for the petitioner as well as Mr. Sk. Md. Galib, learned Senior Government Advocate appearing on behalf of the State. The limited scope of the present challenge is against an order refusing to allow the restoration application filed by the petitioner on the ground

that sufficient explanation for the delay in preferring the same was not furnished.

2. The brief facts are that the petitioner had taken out an original application before the Tribunal which was dismissed for default on April 5, 2011. Thereafter, the present writ petitioner took out applications for restoration of the matter and for condonation of delay on April 30, 2013 i.e. about two years after the dismissal for default.
3. In the said applications, the writ petitioner stated that the writ petitioner had entrusted his erstwhile learned Advocate with the papers for conducting the matter. However, subsequently, for the first time in the first week of February, 2013, the petitioner came to know that the said learned Advocate had died in the month of September, 2012. Thereafter, the writ petitioner tried his level best to get back the papers but could not collect the papers from the chamber of the learned Advocate and was constrained to file an application on March 11, 2013 for obtaining certified copies of the original application as well as the last order passed by the Tribunal therein.
4. Upon getting the certified copies, it was discovered that the original application was dismissed for default on April 5, 2011,

whereupon a new learned Advocate was engaged, who prepared and filed the applications for restoration and for condonation of delay. Thus, we find that sufficient explanation has been furnished in the restoration application and the connected condonation application for the delay in preferring the application for restoration and the absence of the petitioner on the relevant date.

5. However, the learned Tribunal, while passing the impugned order, adopted a hyper-technical approach contrary to the settled principles of law governing the adjudication of applications for condonation of delay. We cannot also lose sight of the fact that the writ petitioner is an agriculturist by profession and as such, being a layman, cannot be expected to know the nuances of law. Thus, the helplessness of the litigant and his marginalized condition are additional factors which prompt us to take a more lenient view in the matter.
6. Hence, we are of the opinion that the learned Tribunal erred in law and in fact in passing the impugned order dismissing the restoration application of the petitioner along with the connected condonation application.
7. Hence, W.P.L.R.T. No. 124 of 2025 is allowed on contest, thereby setting aside the impugned order dated February 12,

2025 passed by the learned Second Bench, West Bengal Land Reforms and Tenancy Tribunal in MA No. 317 of 2013 and MA No. 318 of 2013 and allowing the said applications and upon condonation of delay in filing the restoration application, OA No. 3703 of 2005 (LRTT) is restored to its original file and number. The learned Tribunal shall now decide OA 3703 of 2005 (LRTT) on its own merits upon giving adequate opportunity to the parties to present their respective cases. In view of the long delay, it is expected that the learned Tribunal shall dispose of the said OA within one year from the date of communication of this order to the learned Tribunal.

8. No order as to costs.
9. Urgent photostat certified copy of the order, if applied for, be supplied to the parties at an early date.

(Sabyasachi Bhattacharyya, J.)

I agree.

(Uday Kumar, J.)