

19.09.2025
Court No.13
Item No.8
AP

MAT 1711 of 2017
With
CAN 3 of 2025

Smt. Pritikana Mondal & Anr.
Vs.
The State of West Bengal & Anr.

Mr. Partha Pratim Roy
Mr. K.R. Ahmed

... For the Appellants.

Mr. Tapan Mukherjee
Mr. Tarak Karan

... For the State.

Re.: **CAN 3 of 2025**

1. CAN 3 of 2025 is an application for condonation of delay in filing the appeal and restoration/recalling of the order dated 10th April, 2025.
2. Delay in filing of the appeal is condoned.
3. Sufficient grounds are available to explain the absence of the appellants on 10th April, 2025.
4. The order dated 10th April, 2025 is recalled.
5. The appeal is hence restored to its original file and number.
6. Accordingly, CAN 3 of 2025 is allowed.

Re. : **MAT 1711 of 2017**

7. The appeal is directed against a judgement and/or order dated 4th September, 2017 passed by a Single Bench of this Court. The brief facts of the case are that

the State had entered into lease agreement on 8th December, 1987 with Madanlal Khandelwal and Durga Prosad Khandelwal in respect of a land of 11 cottahs 8 chattaks 22 sq. feet in plot no.1(CA) in Block B-13 in Kalyani Town. The said Khandelwals are stated to have subsequently sublet the property to the appellants. The said subletting is admittedly illegal and done without the prior consent of the State.

8. Be that as it may, the original lessees were obliged within the terms and conditions of the lease to make permanent construction thereat within two years of sanction thereof. The lessees have failed to do so.

9. The State issue notices dated 10th January, 2002 and 3rd September, 2007 terminating the lease of the original lessees for being unable to effect construction thereon by 1991. The original lessees were, therefore, given more than ten years outside the scope of the lease deed itself to effect construction which they have failed to do.

10. There is serious doubt as to whether the writ petitioners have any locus standi to file writ petition or the appeal since the subletting of the leasehold property was itself barred under the terms and conditions of the lease. No prior permission in any event has been taken by the original lessees to sublet the property in favour of the appellants/writ petitioners.

11. Be that as it may, since there is admitted violation of mandatory condition under the lease for effecting construction within two years from 8th December, 1987, the State was fully and completely justified in terminating the lease.

12. Counsel for the State has submitted that the State has re-entered and resumed into the property a long time ago.

13. Having regard to the above, this Court finds absolutely no reason to interfere with the impugned order dated 4th September, 2017.

14. Hence, MAT 1711 of 2017 is dismissed. Consequently, all connected pending applications, if any, are also dismissed.

15. Interims orders, if any, shall stand vacated.

16. There shall be no order as to costs.

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

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)