

Item No.3  
12.06.2026  
Court. No. 12  
GB

MAT 966 of 2026  
With  
CAN 1 of 2026

Yesmin Begum  
Vs.  
Kolkata Municipal Corporation & Ors.

*Mr. Ranajit Chatterjee*

*...for the Appellant.*

*Mr. Alak Kumar Ghosh*

*...for the KMC.*

*Mr. D.N. Roy, Ld. G.P.,  
Ms. Susmita Saha Dutta, Ld. A.G.P.,  
Ms. Tanusree Ghosh*

*...for the State.*

1. Affidavit-of-service filed in Court today, is taken on record.
2. Ms. Susmita Saha Dutta, learned Additional Government Pleader and Ms. Tanusree Ghosh, learned advocate appear for the State respondents.
3. The appeal arises out of an order dated June 5, 2026, passed in WPA No.12274 of 2026. By the order impugned, the learned Court dismissed the writ petition on the ground that the appeal before the Building Tribunal was belated and as such, there was no appeal in the eye of law. On such understanding of the law, His Lordship did not protect the construction till orders were passed by the learned tribunal.
4. Mr. Chatterjee, learned advocate for the appellant submits that the order suffers from a jurisdictional error, insofar as, the provision of filing an appeal is concerned.

5. We agree with Mr. Chatterjee to the extent that the observations of His Lordship that, the appeal before the tribunal was hopelessly barred by limitation and as such, there was no appeal in existence, has adversely affected the right of the appellant before the Building Tribunal. Once the Building Tribunal is in seisin of the matter, it is up to the tribunal how to dispose of the application for condonation of delay, the other connected application, as also the appeal, as per its wisdom and law.
6. Mr. Ghosh, learned advocate for the corporation submits that the appellant was a fence sitter. Only after the appeal of the developer was dismissed, the daughter of the original owner of the premises preferred the appeal belatedly, on the same issue.
7. Heard the parties. The law does not require that every person aggrieved by an order has to prefer an appeal. If one of the parties prefer an appeal, the other parties can support the appeal.
8. Under such circumstances, the observations of His Lordship are deleted from the order impugned. The appellant is at liberty to pray for all orders that may be passed before the learned tribunal and the learned tribunal will hear out the application for condonation of delay and any other application that may be made before the learned tribunal, in accordance with law, independently and without being influenced by the order His Lordship.

9. In view of the urgency involved, as a demolition proceeding has already been initiated, the learned tribunal is requested to dispose of the application for condonation of delay and if delay is condoned, to decide on the interim prayer, within a month from the date of communication of this order. The demolition proceeding shall remain stayed for a month.
10. Accordingly, the appeal and the connected application are disposed of.
11. This order does not amount to any observation on the merits of the appeal. This protection is being given, only to allow the appellant to avail of an opportunity to get his application before the learned tribunal heard. The entire merits are left open, to be decided by the learned tribunal in accordance with law.
12. Urgent Xerox certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

**(Shampa Sarkar, J.)**

**(Ajay Kumar Gupta, J.)**