

Item No. 1
19.01.2026
Court. No. 6
GB

C.O. 2299 of 2025

Board of Trustees of Syama Prasad Mookerjee Port,
Kolkata (erstwhile the Board of Trustees
of Kolkata Port Trust)

Vs.

Manor Floatel Limited & Ors.

*Mr. Kishore Datta, Ld. Sr. Adv.,
Mr. Subhankar Nag,
Mr. Shehashis Sen,
Ms. Debasmita Nandi*

...for the Petitioner.

*Mr. Ratnanko Banerjee, Ld. Sr. Adv.,
Mr. Sidhartah Sharman,
Ms. Shristi Barman,
Mr. Rishav Dutta*

...for the Opposite Party Nos.1 & 2

1. This revisional application arises out of an order dated June 11, 2026, passed by the learned Chief Judge, City Civil Court at Calcutta in Misc. Appeal No.24 of 2025.
2. The application for condonation of delay in preferring the statutory appeal by the opposite party nos.1 and 2 was allowed by the learned Judge, inter alia, on the ground that the Hon'ble Apex Court had permitted the opposite party nos.1 and 2 to prefer an appeal from the order of the Estate Officer and also seek interim stay of the eviction order. In view of such observations of the Hon'ble Apex Court, the learned Judge was of the opinion that there was no impediment on the part of the learned court to condone the delay and proceed with the hearing of the appeal and the connected applications.
3. The learned court took notice of the fact that between May 24, 2025 till June 1, 2025, the City Civil Court at

Calcutta was in its summer recess. Moreover, the explanations shown by the opposite parties before the learned Judge that, voluminous papers could not be compiled and the appeal could not be made ready within the stipulated period of limitation, were found to be sufficient cause for condonation of delay. Such grounds were found to be legitimate and logical. The learned Judge held that there was neither any negligence nor inaction on the part of the defaulting party.

4. Learned Advocate General appears on behalf of the petitioner and submits that the order impugned is perverse. The learned Judge erroneously applied the principles under Section 5 of the Limitation Act while condoning the delay, thereby, completely ignoring the proviso to Section 9 of the West Bengal Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (hereinafter referred to as the 'said Act of 1971').
5. According to the learned Advocate General, the appellate authority could entertain the appeal after the expiry of the period of limitation prescribed under the law, under exceptional circumstances, if the authority was satisfied that there were compelling reasons which prevented filing of the appeal.
6. Reliance is placed on the decision of the Hon'ble Apex Court in the matter of ***S.D. Bandi versus Divisional Traffic Officer, Karnataka State Road Transport Corporation and Others***

reported in **(2013) 12 Supreme Court Cases 631**, in support of the contention that, the Hon'ble Apex Court had recognized that the liberty granted to the appellate officer under such proviso, to condone the delay in filing the appeal under Section 9 of the said Act of 1971, should be exercised very reluctantly and only under exceptional circumstances. Condonation of delay could not be the general rule, but an exception. It is submitted that the decision of the Hon'ble Apex Court had resulted in the amendment of the proviso and substitution thereof. Earlier, the appellate officer had the liberty to entertain the appeal by condoning the delay if sufficient cause was shown. The said proviso was substituted, whereby, a statutory mandate was cast upon the appellate authority to record the exceptional circumstances that had prevailed, which prevented the appellant under Section 9 of the said Act of 1971 from approaching the appellate authority within the time stipulated under the law.

7. It is submitted in this case that, no exceptional circumstances had been demonstrated which could convince the appellate authority that the delay should be condoned. The learned Judge wrongly recorded that sufficient cause had been shown and the explanations were satisfactory and acceptable. The learned Judge had failed to apply the principles enunciated in the proviso and had condoned the delay in a routine manner, thereby, imposing a condition of

payment of occupation charges/rent at a reduced rate, contrary to the schedule of rent, in lieu of stay of the order of eviction.

8. Reference has been further made to the decision of the Hon'ble Apex Court in the matter of ***Balwant Singh (Dead) versus Jagdish Singh and Others*** reported in ***(2010) 8 Supreme Court Cases 685*** in support of the contention that the issue of condonation of delay should be decided in its correct perspective and as per the legislative intent. Each and every word in the proviso should be given its full and complete effect, in order to ensure that the object sought to be achieved by the substitution of the earlier proviso, does not become nugatory. The purpose behind substitution of the earlier proviso was completely overlooked by the learned Judge and has become ineffective.
9. Thus, it is prayed that the order should be set aside. It is also submitted that the condition imposed by the learned court was contrary to the decision of the High Court in a writ petition preferred by the opposite party no.1.
10. Mr. Banerji, learned senior advocate appearing on behalf of the opposite party nos.1 and 2 submits that, the very fact that the Hon'ble Apex Court granted liberty to the said opposite parties to approach the appellate authority against the order of the estate officer, itself, constituted exceptional circumstances

for condonation of the delay, for entertainment of the appeal and also grant of interim relief. It is further submitted that, as the petitioner had already preferred an appeal against order of the NCLT, which refused to recall the resolution plan, the opposite parties challenged the order of the Estate Officer in the pending proceeding, on the understanding that all the issues would be decided by the Hon'ble Apex Court, including the propriety of the order of the Estate Officer.

11. According to Mr. Banerji, the property from which the opposite party nos.1 and 2 were sought to be evicted by the order of the Estate Officer, was a part of the resolution plan. Thus, the delay in filing the statutory appeal could not be termed as an intentional laches on the part of the opposite parties in approaching the appellate authority.
12. In this case, only a marginal delay of five days had occurred. Mr. Banerji, relies on the grounds mentioned in the application for condonation under paragraph 4, which demonstrates that a day to day explanation had provided by the opposite parties.
13. Upon hearing the learned senior advocates for the respective parties, it appears to this Court that before the Estate Officer could conclude the proceeding, the opposite party no.1 had been admitted into CIRP. A resolution plan was prepared and the opposite party no.2 was the successful resolution applicant. The

petitioner prayed for recall of the resolution plan before the NCLT, inter alia, on various grounds, including the ground that the property of the petitioner could not be a part of the resolution plan, as the same was not an asset of the opposite party no.1. The land belonged to the petitioner. Other grounds of challenge to the resolution plan were the reduced amount of rent, non-payment of prior claims towards arrear rents etc. The NCLT refused to recall the resolution plan. An appeal was preferred before the NCLAT. The NCLAT dismissed the appeal. Aggrieved, the petitioner approached the Hon'ble Apex Court. The Hon'ble Apex Court had initially directed that the proceedings before the Estate Officer should continue. Thereafter, the Estate Officer passed his order of eviction. The opposite party nos.1 and 2 filed an application for setting aside of the order of eviction of the Estate Officer, in the pending appeal. The Hon'ble Apex Court in the order dated May 27, 2025, recorded that the opposite party nos.1 and 2 had a statutory right to prefer an appeal. In the circumstances, liberty was reserved to the opposite party nos.1 and 2 to file the statutory appeal against the order of eviction. The opposite parties were also granted liberty to pray for an interim order of stay of the eviction order. Such order was passed within the statutory period of limitation, which means that the opposite party nos.1 and 2 were not negligent in challenging the order of

eviction. They approached the Apex Court within time. The Apex Court refused to entertain the prayer for setting aside the order of eviction, upon holding that the opposite parties had a remedy by way of statutory appeal before the learned Judge. Thus, the fact that the opposite parties had approached a forum which did not entertain the application is available from the records.

14. The period when the City Civil Court was undergoing recess will also stand excluded. The Court reopened on June 2, 2025 and the appeal has filed on June 6, 2025.
15. The opposite parties/appellants before the learned Judge were vigilant and had acted bona fide. The delay of five days has been explained. It has been stated that, various orders of the courts and tribunals, had to be complied. Those were voluminous. The proceeding before the Estate Officer had been continuing for a long time and as such, there were lot of papers to be collected. The learned advocates who were enjoying the summer vacation were also unavailable and as such, at the earliest possible opportunity the appeal was filed. The learned Judge was satisfied with the explanations. The factual background as narrated hereinabove, clearly indicate that exceptional circumstances did exist, for which the appeal could not be filed before the learned Judge before June 6, 2025. The term “Exceptional

Circumstances” as mentioned in the proviso has not been defined. Thus, such exceptional circumstances and compelling reasons have to be deduced from the facts of the case and the conduct of the parties. Admittedly, the application for setting aside the order of eviction was filed before the Hon’ble Apex Court within the period of limitation. The order was passed on May 27, 2025, granting liberty to the opposite parties to prefer an appeal. The summer vacation had commenced. City Civil Court reopened on June 2, 2025 and the appeal was filed on June 6, 2025.

16. Under such circumstances, I do not find any perversity in the order of the learned Judge in condoning the delay of five days. The question now before this Court is whether the condition imposed by the learned Judge is sufficient or not. It already appears that the opposite party no.2 has made an offer and Mr. Banerji candidly submits that the opposite parties are interested to arrive at a settlement, and pay the rent as per the schedule of rent.
17. This Court is of the view that if any alteration is made to the rent held to be payable as per the resolution plan, the same can affect the proceedings before the Hon’ble Apex Court and will also be contrary to the resolution plan. The resolution plan is under challenge before the Hon’ble Apex Court. The effect of the order of the NCLT on the arrear payable by the erstwhile owner to Kolkata Port Trust, in terms of the order of

the writ Court will require adjudication of the issue as to whether the claim/debt stood extinguished or not.

This is also an issue before the Hon'ble Apex Court

18. Under such circumstances, the prayer for enhancement of the rent at this stage is not entertained. However, as Mr. Banerji submits that the opposite party no.2 wants to make an offer to the petitioner, without prejudice to its rights and contentions, such offer may be made. The petitioner may consider the same as per its discretion. The pending appeal shall be disposed of by the learned appellate authority expeditiously, preferably within a period of two months from date.

19. Accordingly, the revisional application is disposed of.

20. Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)