

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

**The Hon'ble Justice Sabyasachi Bhattacharyya
And
The Hon'ble Justice Supratim Bhattacharya**

W.P.L.R.T. No.212 of 2025

M/s. Skyline Vanijya Pvt. Limited. &Anr.
Vs.
The State of West Bengal & Ors.

For the petitioners	:	Mr. Arindam Banerjee, Sr. Adv. Mr. Saptarshi Datta Mr. Shounak Mukhopadhyay Ms. Srinjita Ghosh Mr. Pourush Kanti Pal Ms. Debdut Hore
For the State	:	Mr. Sk. Md. Galib Mr. Kapil Guha
For the respondent nos. 17, 23, 43, 44, 49, 53 and 59	:	Mr. Surya Prasad Chattopadhyay Mr. Arjun Samanta Ms. Trishtrya Mancherji
Heard on	:	19.01.2026
Judgment on	:	19.01.2026

Sabyasachi Bhattacharyya, J.:-

1. At the outset, it is made clear that since no affidavits have been invited, the allegations made in the writ petition are deemed to have been denied by all the respondents.
2. Affidavit of service filed today in Court be kept on record.
3. Learned Senior Counsel appearing for the petitioners submits that only 16 respondents had contested in the Tribunal, out of whom one has been served and the endorsements in respect of the others is “refused”.
4. Learned Senior Counsel hastens to add that the said refusals are evident not from postal service but from private service effected by the registered clerk of an advocate of this Court, which is also reflected in the connected affidavit of service. In view of the affidavit being before us, we construe such service to have been effected duly.
5. Be it mentioned here that some of the private respondents are represented through counsel at the time of hearing, as are the State respondents.

6. Learned Senior Counsel appearing for the petitioners argues that the learned Tribunal acted without jurisdiction and *de hors* the law in refusing to condone the delay of about 561 days in preferring the original application before the Tribunal.
7. The original application was preferred against an order passed under the West Bengal Thika Tenancy (Acquisition and Regulation) Act, 2001.
8. By way of explanation, it is submitted on behalf of the petitioners that although the initial writ petition was filed before this Court against the impugned order about six and a half months subsequent to the impugned order being passed under the said Act, since there is strictly no limitation period provided by any statute for the Constitutional remedy of Article 226 of the Constitution, the rigours of limitation were not applicable and as such, there was no reason for the petitioners to come within the statutory limitation period for preferring a challenge.
9. Such writ petition, it is submitted, could only be moved before a learned Single Judge, since despite the best efforts of the petitioners, it was not accepted by the Central Filing Department of this Court to be placed before a Division Bench, having not been preferred against an order passed by the Land Reforms and Tenancy Tribunal.

10. Ultimately, by an order dated September 25, 2020, the writ petition bearing WP No. 20459 (W) of 2019 was dismissed by the concerned learned Single Judge on the ground that it was not maintainable in view of an equally efficacious alternative remedy being available by way of a challenge before the appropriate Tribunal.
11. Within about three months from such dismissal, in the month of December, 2020, the original application was filed before the Tribunal against the original order of the Thika Controller, which was accompanied by an application for condonation of delay. The said condonation application having been dismissed, the present writ petition has been preferred.
12. Learned Senior Counsel for the petitioners submits further that sufficient explanation for the delay has already been furnished in the condonation application before the Tribunal and the learned Tribunal took a hyper-technical view in rejecting the same.
13. Learned counsel for the appearing private respondents controverts such submissions and places reliance on the judgment of the learned Single Judge dated September 25, 2020, where it was recorded, while dismissing the writ petition of the petitioners, that despite the adjudication in the affirmative of the question as to the Thika Controller

having jurisdiction in the proceedings from which the challenge arose in a bunch of previous writ petitions, the present writ petitioners repeated the same exercise by taking out the writ petition in question, bearing WP No. 20459 (W) of 2019, which also culminated in dismissal as not maintainable.

14. It is vociferously contended that such attempt on the part of the writ petitioners was a deliberate effort to protract the proceedings.
15. It is argued that the intentional invocation of the writ jurisdiction, on the specific question of jurisdiction of the Thika Controller, even after such question was held in favour of the Thika Controller having such jurisdiction in view of the writ petitioners having themselves submitted to the jurisdiction of the Thika Controller, is mala fide in nature and does not come within the ambit of the term “bona fide” as used in Section 14 of the Limitation Act.
16. Thus, the benefit of Section 14 the Limitation Act, it is submitted, cannot be extended to the petitioners and the Tribunal was justified in dismissing the condonation application.
17. Learned counsel for the private respondents cites, in support of his arguments, a judgment of the Hon’ble Supreme Court in the matter of **H. Guruswami & Ors. Vs. Krishnaiah since deceased by LRs** reported

at **2025 SCC OnLine SC 54**, where it was categorically observed by the Hon'ble Supreme Court that while considering the application for condonation of delay, the Court must not start with the merits of the main matter but owes a duty to first ascertain the bona fides of the explanation offered by the party seeking condonation. It was observed that it is only if the sufficient cause assigned by the litigant and the opposition of the other side is equally balanced that the Court may bring into aid the merits of the matter for the purpose of condoning the delay.

18. Learned Senior Government Advocate, appealing for the State respondent, apart from relying on the judgment cited by the private respondents, also seeks to rely on another judgment of the same Division Bench of the Hon'ble Supreme Court. That apart, learned Senior Government Advocate cites **M.P. Steel Corporation Vs. Commissioner of Central Excise** reported at **(2015) 7 SCC 58** for highlighting the proposition that the period prior to the institution or the initiation of any abortive proceeding cannot be excluded in calculating limitation for the simple reason that Section 14 does not enable a litigant to get a benefit beyond what is contemplated by the

Section - that is to put the litigant in the same position as if the abortive proceeding had never taken place.

19. Learned Senior Government Advocate also places reliance on the illustration in that regard given in paragraph No. 49 of the said judgment, where it was found that in a case where limitation period for the original proceeding is six months and the plaintiff / applicant files such a proceeding on the ninetieth day i.e. after three months are over, and the said proceeding turns out to be abortive after it has gone through a chequered career in the Appellate Court, so long as the fresh proceeding is filed within the remaining three months' period, Section 14 will apply to exclude the entire time taken starting from the ninety-first day till the final appeal is ultimately dismissed.

20. Learned Senior Government Advocate specifically places the relevant portions of the impugned judgment of the Tribunal to reiterate that the learned Tribunal took into consideration all the facets of the matter. It is further argued that the delay of the initial period of six and a half months prior to filing of the writ petition has not been explained at all. Thus, it is contended that the present writ petition ought to be dismissed.

21. Upon hearing learned counsel for the parties, this Court finds that the learned Tribunal proceeded primarily on the premise, while dismissing the condonation application of the writ petitioners, that the conduct of the writ petitioners in filing the said application was not bona fide within the contemplation of Section 14 of the Limitation Act.
22. While so observing, the learned Tribunal held that a half-hearted attempt had been made on behalf of the petitioners to explain the delay and the factual background as placed by the petitioners appeared to be based on half-truth, which was taken to be a “whole lie”. Also, it was observed that the delay caused was intentional, as jurisdiction of the Hon’ble High Court “was approached by the petitioners by filing a writ petition to seek a judicial review under the active guidance of an alleged expert in the field of Thika Tenancy laws while it was evident that the petitioners of the M.A. No. 02 of 2021 have sought to fix a period of limitation according to their choice and convenience”.
23. However, there is a subtle distinction between a half-truth and a full truth which does not satisfy the perception/conscience of the Court/Tribunal. In the present case, there is no instance of suppression of any material fact by the writ petitioners in their condonation application before the Tribunal. The writ petitioners, even if held guilty

of omission, such omission was restrict to non-furnishing of explanation for the period of six and a half months prior to the first filing of the first writ petition and not of any suppression.

24. From the arguments of the writ petitioners, it transpires that the writ petitioners placed specific reliance on a Division Bench judgment of this Court in the matter of **Shahi Encleves Pvt. Ltd. Vs. The State of West Bengal & Ors.** reported at **2016 (4) CHN (Cal) 190**, for the proposition that an action questioning the wrongful assumption of jurisdiction by the Thika Controller is not barred before the Writ Court.
25. One of the premises of the challenge to the Thika Controller's order in the writ petition was jurisdiction.
26. As such, it was arguable, in the least, as to whether the writ petition was maintainable in view of the challenge on the ground of jurisdiction at the point of time when the writ petition bearing WP 20459 (W) of 2019 was filed. Thus, in scientific terms, the possibility of the writ petition being maintainable was fifty per cent from a quantum perspective, which was crystallized into cent per cent reality upon the observer, i.e. the learned Single Judge, deciding the writ petition, coming to the definite conclusion that the writ petition was not maintainable and that a challenge lay before the Tribunal.

27. Hence, there was no fault on the part of the petitioners in so far as the maintainability of the writ petition was concerned, so as to attribute malafides to the very filing of the writ petition itself. The cause of action for filing the original application was ripened only upon the writ petition attaining finality upon the learned Single Judge observing in the final analysis that it was not maintainable, on the ground of the previous adjudication of a bunch of prior writ petitions.
28. The question which now remains to be considered is whether the non-furnishing of any specific explanation for the six and half month period prior to the filing of the writ petition is germane.
29. It is well-settled that there is no statutory time limit for filing a writ petition. Different Courts, including the Apex Court of the country, have held that a writ petition has to be filed within a “reasonable period”, which is subject again to the perception of the specific Court adjudicating the same. In the present case, no such point was raised, came up for adjudication or was decided by the learned Single Judge while taking up the writ petition itself and as such, it cannot be said that the said delay in filing the writ petition can be made a ground in a subsequent condonation application.

30. Since the chosen remedy of the writ petitioners was Article 226 of the Constitution of India at the juncture of filing of the writ petition (the maintainability of which was decided only subsequently while dismissing the same), the statutory limitation period prescribed for preferring a challenge before the Tribunal cannot be superimposed on the said period. The Court has to proceed from the perspective of a writ petition in analyzing the six and half month delay in preferring the writ petition. In view of the above discussion, thus, it cannot be said that on the date of filing of the writ petition, any specific statutory limitation period was flouted, since the writ jurisdiction was specifically invoked by the writ petitioners.
31. Only upon the writ petition having been finally dismissed as not maintainable did the cause of action of the writ petitioners ripen and crystallize for the purpose of filing an original application before the Tribunal. The period thereafter has been well-explained and is further justified due to the Pandemic restrictions prevalent during the same.
32. Thus, we find that sufficient explanation was given for the delay in making the original application on the part of the writ petitioners and the learned Tribunal acted in an illegal manner in rejecting the said condonation application.

33. Insofar as the ratio laid down in **M.P. Steel Corporation (supra)** is concerned, we, with utmost respect, agree with the same and do not extend the benefit of Section 14 beyond the period during which the writ petition was subsisting, having discussed the rest of the period in our above observations within the contemplation of Section 5, and not Section 14, of the Limitation Act.
34. Regarding applicability of the principle laid down in **Guruswami (supra)**, in view of our specific finding that there was no dearth of bona fides as such or attribution of malafides which can be pinpointed on the writ petitioners, the principle laid down therein is not attracted as well.
35. In such view of the matter, WPLRT 212 of 2025 is allowed on contest, thereby setting aside the impugned judgment dated November 3, 2025, passed by the Fourth Bench, West Bengal Land Reforms and Tenancy Tribunal in M.A. No. 02 of 2021 [in connection with O.A. No.2083 of 2020 (LRTT)] and allowing the condonation application filed by the writ petitioners before the Tribunal, bearing M.A. No. 02 of 2021.
36. The learned Tribunal shall now take up O.A. No.2083 of 2020 (LRTT) and the other connected pending applications in connection therewith for adjudication on merits in accordance with law. It is further clarified

that the merits of the said O.A. as well as the connected applications have not been entered into by this Court.

37. There will be no order as to costs.

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

(Sabyasachi Bhattacharyya, J.)

I agree.

(Supratim Bhattacharya, J.)