

JPS-07
Ct No.07
09.06.2026
AK

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Civil Appellate Jurisdiction

C.O. 42 of 2026

Alok Barman and others
Vs
Arijit Barman (minor) represented by mother
Kanchani (Mahanta) Barman and others

Mr. Hillol Saha Podder
.... for the petitioners.

Mr. Ajoy Kumar Singhania
Ms. Modhurima Roy
Mr. Nigam Mittal
...for the opposite parties.

1. The present challenge has been preferred against the dismissal of an application for condonation of delay in filing an appeal, preferred against the dismissal of the petitioners' application for preemption under Section 8 of the West Bengal Land Reforms Act, 1955.
2. The learned Appellate Judge, while passing the impugned order, disbelieved the case of the petitioners that the petitioners learnt of the impugned preemption order dated December 6, 2024 for the first time on February 11, 2025 and thereafter the papers of the petitioners were lost and found much later, upon which the appeal was preferred.

3. Learned counsel appearing for the petitioners places reliance on a server copy of an order dated January 20, 2025 passed in FMAT 1 of 2025 and submits that initially, an appeal had been erroneously filed by the petitioners, due to wrong legal advice, against the self-same order of the preemption court before a Division Bench of this court, which was dismissed as not maintainable vide order dated January 20, 2025, granting the petitioners liberty to take appropriate steps in accordance with law if so advised.
4. Thus, it is submitted that the learned First Appellate Court ought to have taken into consideration such reason for the delay and condoned the delay.
5. Learned counsel appearing for the opposite parties vehemently opposes the submissions of the petitioners and submits that no explanation whatsoever was given for the prolonged delay in preferring the appeal.
6. Upon a perusal of the averments made in the condonation application, which was rejected by the impugned order, this court finds no mention whatsoever of any appeal having been erroneously filed in the interregnum before this

court against the order passed by the preemption court.

7. Even if it is taken into account that an appeal had initially been preferred wrongly before this court against the order of the preemption court, the same had been dismissed on January 20, 2025 itself, whereas the petitioners, in their condonation application, have incorrectly stated that they came to know of the dismissal of their preemption application from a mobile phone communication of February 11, 2025.
8. It is palpable that the very premise of the condonation application was based on falsity, since if the petitioners had already preferred an appeal which was dismissed as not maintainable on January 20, 2025, it would be absolutely incorrect and absurd to say that the petitioners first came to know of the order impugned in the appeal only thereafter, that is, on February 11, 2025.
9. Also, apparently the advanced age of the appellants/petitioner no.3 has been cited as a ground, probably to draw the sympathy of the court. However, there is no explanation whatsoever regarding the negligence of the other petitioners in not preferring an appeal in time.

10. Hence, even if I take into account the grounds furnished in the condonation application, those were palpably incorrect and an attempt to mislead the court, in view of the petitioners having grossly suppressed the preference of an appeal against the self-same order of the preemption court and the dismissal of the same on January 20, 2025, even before the purported date of first knowledge of the impugned order of the petitioners on February 11, 2025, the disclosure of which would put the date of first knowledge much earlier.
11. Thus, even otherwise than on the grounds cited in the impugned judgment, the learned First Appellate Court was justified in dismissing the application under Section 5 of the Limitation Act and consequentially the preemption appeal.
12. Hence, there is no scope of interference.
13. Accordingly, C.O. 42 of 2026 is dismissed on contest without any order as to costs.
14. Urgent certified copies of this judgment, if applied for, be given to the parties upon compliance of all formalities.

(Sabyasachi Bhattacharyya, J.)