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**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE**

**BEFORE:
THE HON'BLE JUSTICE SABYASACHI BHATTACHARYYA
-AND-
THE HON'BLE JUSTICE SUPRATIM BHATTACHARYA**

**APDT/4/2026
IA No. GA/1/2026**

**NAND LAL RATHI
-VS-
M/S. A. T. GOOYEE ENTERPRISES**

For the appellant	:	Mr. Siddhartha Lahiri, Adv., Mr. Shashwat Nayak, Adv., Mr. Sumit Biswas, Adv., Mr. Debdas Dutta, Adv.
For the respondent	:	Mr. Surajit Nath Mitra, Sr. Adv. Mr. Jayjit Ganguly, Adv. Mr. Pradip Sancheti, Adv. Mr. Rudrajit Sarkar, Adv. Ms. Vansika Newar, Adv.
Heard on	:	25.03.2026
Judgment on	:	25.03.2026

Sabyasachi Bhattacharyya, J.:

1. Upon hearing learned counsel for the parties, we find sufficient explanation for the delay having been furnished. Accordingly, the delay in preferring the appeal is condoned.
2. The present intra court appeal and APDT/6/2026 have been preferred against a common judgment and separate decrees dated August 25, 2025, whereby the tenant's/appellant's suit, claiming tenancy rights

and permanent injunction, was partly decreed by declaring that the appellant is a tenant in respect of the suit property, and an eviction suit filed by the respondent herein was decreed.

- 3.** The brief backdrop of the case is that an agreement, captioned as one of Leave and Licence, was entered into between the parties on April 1, 2004.
- 4.** Whereas the respondent pleaded that the same was a Leave and Licence agreement simpliciter, the present appellant took a defence that the same was in effect a lease deed. The contention of the appellant was accepted by the suit court, holding that the appellant was a tenant/lessee in respect of the suit property.
- 5.** Learned counsel appearing for the appellant contends that the lease deed was executed by one partnership firm by the name of “M/s A.T. Goyee Enterprises”, whereas rent receipts were subsequently issued by one “M/s. A. T. Gooyee Enterprises”.
- 6.** It is submitted that as such, the entity which filed the suit for eviction was different than the lessor of the appellant.
- 7.** It is contended that the learned Trial Judge failed to look into the material evidence in that regard to hold that there was privity of contract between the parties and that the expression “M/s. A. T. Goyee Enterprises” and “M/s. A.T. Gooyee Enterprises” were used interchangeably between the parties to mean the present respondent.
- 8.** Secondly, it is contended by the appellant that the original lease deed dated April 1, 2004 was ultimately given a go-by, since rent was paid at

the rate of Rs.45,000/- plus Rs.1000/-, totalling Rs.46,000/- per month, which deviated from the rent agreed upon in the lease deed. Thus, it is argued that an independent monthly tenancy was created between the parties and, as such, the learned Trial Judge proceeded on an erroneous premise to rely on the lease deed to grant an eviction decree.

- 9.** Thirdly, it is argued that the lease deed being unregistered, the tenancy between the parties was a monthly tenancy within the contemplation of the Transfer of Property Act, 1882.
- 10.** Learned senior counsel appearing for the respondent hands over soft copies of Exhibit-3 in the suit, that is, a rent receipt, from which it transpires that although the original printed name of the lessor in the said receipt was “M/s. A. T. Goyee Enterprises”, but there was an interpolation of an additional letter “o” in the expression “Goyee”, thereby making it “Gooyee”. It is submitted that as such, since such document came from the custody of the appellant himself and was relied upon by the appellant, it is an admitted position that the perception of the parties was that the terms “Goyee” and “Gooyee” were all along used interchangeably to refer to the lessor.
- 11.** Learned senior counsel further argues that in any event, a notice to quit was given within the contemplation of Section 106 of the Transfer of Property Act, 1882 which terminated the tenancy, even it was an independent monthly tenancy and not a lease as per the deed.

12. Upon a careful consideration of the impugned judgment and the materials before us, including the pleadings of the parties in the Trial Court, we come to the conclusion that one of the plausible views available on the materials on record was taken by the learned Single Judge, as such precluding any necessity of interfering with the same, particularly within the constrained conspectus of an intra-court Letters Patent appeal.

13. We say so for the following reasons:-

14. From the agreement of Leave and Licence, which was ultimately held by the learned Single Judge to be a lease deed, it is evidenced that the jural relationship of lessor-lessee between the parties commenced on and from April 1, 2004 and that the agreed rent between the parties was Rs.45,000/-. In terms of the said deed, a security deposit of Rs.2,70,000/- was also to be deposited by the appellant in favour of the respondent.

15. Such facts were iterated in the plaint of the eviction suit by the respondent, in particular in paragraph no. 2 thereof. In paragraph no.8 of the written statement filed by the appellant in connection with the said suit, it was categorically admitted that the defendant entered into possession on April 1, 2004 and also deposited a sum of Rs.2,70,000/- as interest free security deposit with the respondent herein as well as "licence fees" of Rs.45,000/- per month. Thus, it is an admitted position that the jural relationship of lessor/lessee between the parties commenced in terms of the deed dated April 1, 2004, which does not

leave any scope for the appellant to resile from such position at this stage by The learned Single Judge went on to observe that the above fact establishes that without any dispute, the appellant accepted A. T. Gooyee Enterprises as landlord, to whom rent was paid and accepted.

- 16.** claiming that an independent tenancy was created.
- 17.** The mere fact that an additional amount of Rs.1000/- as agreed between the parties was paid, purportedly as rent for sub-lease, does not alter the position that the jural relationship between the parties was governed by the lease deed dated April 1, 2004 and also was the starting point of the said relationship.
- 18.** The question as to identity of the appellant was also dealt with explicitly and elaborately by the learned Single Judge in the impugned judgment.
- 19.** It was observed by the learned Single judge that from the conduct of the parties, it was evident that the appellant was aware of the spelling M/s. A. T. Gooyee Enterprises. It was observed further in the impugned judgment that when the Leave and Licence agreement was executed, it contained the spelling "M/s A. T. Goyee Enterprises" whereas in the stamp paper the name was depicted as "M/s A. T. Gooyee Enterprises".
- 20.** It was further recorded in the impugned judgment, on the basis of the deposition of the appellant as witness, that an agreement was entered into without any objection and it was acted upon by the parties and that subsequently rent was tendered on behalf of the appellant, which was accepted by M/s A. T. Gooyee Enterprises. The appellant further stated in his evidence that he paid rent by cheques. The learned Single

Judge recorded that the entry in his passbook dated August 18, 2008 was in the name "A. T. Gooyee Enterprises".

21. It may be noted here that learned counsel for the appellant points out that the last such observation was contrary to Exhibit-5, the bank passbook, which indicates that the entry of that date was not in the name of M/s. A. T. Gooyee Enterprises but in the name of A.T. Goyee Enterprises.

22. Even if we proceed on the premise that the entry in the passbook dated August 18, 2008 was erroneously noted by the learned Single Judge, from the other evidence which was considered as well, we find that sufficient and plausible justification for coming to such finding was attributed by the learned Single Judge in his judgment, such as the rent receipts being in the name of M/s A. T. Gooyee Enterprises as well as the stamp paper on which the lease agreement was entered into also being in the name of M/s. A. T. Gooyee Enterprises, that is, the plaintiff/respondent.

23. Thus, since the said finding of the learned Single Judge, to the effect that the appellant as well as the respondent proceeded on the premise that the difference in the name was insignificant and such names were used interchangeably, was based on sufficient evidence, we do not find any reason to interfere with such finding of fact, being based on material evidence.

- 24.** The isolated instance of error in reading the entry in the passbook for one date does not vitiate the said finding otherwise. in view of there being sufficient other materials to support such conclusion.
- 25.** With regard to the next contention that the lease deed was given a go-by, in other words, not acted upon, such stand is patently contrary to the pleadings and the admission therein made by the appellant in the suit court.
- 26.** As discussed above, in paragraph 8 of the written statement, dealing with the concerned allegation of the plaintiff in paragraph no.2 of the plaint, the appellant categorically admitted that he had acted upon the deed dated April 1, 2004, had entered into possession on April 1, 2004, as well as paid rent at the rate as stipulated in such agreement along with interest free security deposited of Rs.2,70,000/-, which was also as per the stipulation in the lease agreement itself.
- 27.** In view of such categorical admission, the appellant cannot now resile from such stand and argue that the lease deed was given a go-by.
- 28.** The next contention of the appellant, to the effect that without giving effect to the lease deed, an independent monthly tenancy was created between the parties by dint of issuance of monthly rent bills, cannot also be accepted in the absence of any independent corroborative evidence to substantiate the same.
- 29.** Contrary to the argument advanced on behalf of the appellant, a lease already in existence by virtue of a lease deed is not automatically

novated and/or no new tenancy is created month to month merely by issuance of monthly rent bills.

30. To establish the novation of a contract and/or creation of a new monthly tenancy independent of the lease deed, pursuant to which the jural relationship between the parties admittedly commenced, the appellant had to bring on record sufficient evidence in support of such creation of fresh tenancy and had to establish by cogent evidence that a consensus ad idem was reached between the parties to create such fresh jural relationship. We do not find any such evidence being on record or being adverted to by the learned Single Judge.

31. Even otherwise, the question of whether there was a monthly tenancy of the appellant in respect of suit property pales into insignificance in view of a quit notice having been issued to terminate such tenancy. Although the appellant submits that the said notice was purportedly under Section 108 of the Transfer of Property Act, 1882, alternatively that it carried no caption of any particular provision of law, we find from the tenor of the said quit notice dated February 25, 2009, which was also exhibited in the suit, that all necessary prerequisites and parameters of Section 106 of the said Act were satisfied in the said notice, inasmuch as it was categorically stated therein that the appellant was to quit and vacate the said premises upon the expiry of the purported licence agreement by way of efflux of time on March 31, 2009 and hand over the peaceful vacant possession of the suit premises in good condition in terms of the said agreement. Since the date of issuance of the notice

was February 25, 2009 and the last date of vacating the premises stipulated therein was March 31, 2009, the time period given therein for the lease to terminate and/or the lessee to vacate is in consonance with Section 106 of the 1882 Act.

32. Thus, even if there was a monthly tenancy between the parties in the absence of registration of the lease deed, the same was validly terminated within the contemplation of Section 106 of the Transfer of Property Act, 1882 by the respondent.

33. Hence, we find no illegality and/or irregularity, or any error - legal or factual - in the impugned judgment of the learned Single Judge justifying interference with the same.

34. In such view of the matter, APDT/4/2026 is dismissed on contest without any order as to costs, thereby affirming the impugned judgment and decree dated August 25, 2025 passed in CS/258/2009.

35. IA No.GA/1/2026 is consequently dismissed as well.

36. No order as to costs.

(SABYASACHI BHATTACHARYYA, J.)

I Agree.

(SUPRATIM BHATTACHARYA, J.)