

17.12.2021
Item No.04.
Court No.6.
S. De

Through Video Conference

**F.M.A. 871 of 2020
I.A. No. CAN/1/2019
(Old CAN/1224/2019)
I.A. No. CAN/2/2019
(Old CAN/3183/2019)**

Chaina Rakshit & Anr.

Vs

The State of West Bengal & Ors.

Mr. Falguni Bandyopadhyay,
...for the appellants.

Despite service none appears on behalf of the respondents.

In re : I.A. No. CAN/2/2019 (Old CAN/3183/2019)

This is an application for condonation of delay of 5 days in filing the appeal. Causes shown being sufficient, the delay is condoned.

CAN 3183 of 2019 is disposed of.

In re : I.A. No. CAN/1/2019 (Old CAN/1224/2019)

The writ petitioners are the wife and son of a gentleman who had taken loan from the respondent/Co-operative Bank. That gentleman was a member of the Co-operative. He passed away on 18.04.2014. The Assistant Registrar of Co-operative Societies, Purulia published an Award on 08.02.2016 under Section 139 of the West Bengal Co-operative

Societies Act, 2006 calling upon the writ petitioners to pay a sum of Rs. 25,26,591/- to the Bank as the same is allegedly due on account of the loan taken by their husband/father.

The writ petitioners challenged the said Award by way of an appeal under Section 147 of the 2006 Act. The Co-operative Tribunal rejected the appeal as being not maintainable since the order passed by the Assistant Registrar does not fall within the scope of Schedule III of the Act. Subsequently, the writ petitioners approached the learned Single Judge by way of the instant writ application. The learned Single Judge dismissed the writ application. Being aggrieved, the writ petitioners are before us.

We have seen the Award. One of the grievances of the writ petitioners is that the Award is totally unreasoned.

We find from the 2006 Act that Section 148 thereof provides an alternative remedy to any aggrieved person by way of a review or a revision before the appropriate authority. The Registrar may also review or revise his own order or order of any subordinate officer. We are of the view that this is a fit case where the writ petitioners may avail the remedy provided under Section 148 of the 2006 Act and we permit the writ petitioners to do so. If the writ petitioners file an appropriate application before the

concerned Authority within a month from date, the same shall be decided by that Authority, in accordance with law without going into the question of time bar, after giving an opportunity of hearing to the writ petitioners/appellants and any other concerned parties. Needless to say, a reasoned order shall be passed by that Authority. The decision should be taken within eight weeks from the date of receipt of the application from the writ petitioners. All points are left open to be urged before the competent Authority and we have not gone into the merits of the case at all.

Since we have not called for affidavits, the allegations contained in the stay petition are deemed not to be admitted by the respondents.

The appeal being F.M.A. 871 of 2020 is disposed of along with the connected application being I.A. No. CAN 1 2019 (Old CAN/1224/2019).

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance with all the necessary formalities.

(Kausik Chanda, J.)

(Arijit Banerjee, J.)