

1
jdt.

16.03.2022
jb.

W.P.A. 19029 of 2007
(Sagar Hosier Milla & Ors. vs. State of West Bengal & Ors.)

(CAN 3 of 2015, CAN 4 of 2016, CAN 5 of 2022, CAN 6 of 2022, CAN 7 of 2022 and CAN 8 of 2022)

Mr. N. C. Behani
Mr. Suchayan Banerjee
... For the Petitioners/Applicants

Mr. Chandi Charan De
Mr. Anirban Sarkar
... For the State

Affidavit-of-service filed on behalf of
the petitioners is taken on record.

Re: CAN 3 of 2015
&
CAN 4 of 2016

Copy of the applications being CAN 3 of
2015 and CAN 4 of 2016 supplied by the
applicants are taken on record and be treated
as original.

It is submitted by the learned advocate
for the applicants that both the applications
have become infructuous. As such, the
applications are disposed of.

Re: CAN 5 of 2022

**&
CAN 6 of 2022
&
CAN 7 of 2022
&
CAN 8 of 2022**

The applicants in CAN 6 of 2022 pray for substitution in place of the 2nd and 3rd petitioners on the ground that in terms of the supplementary deed of partnership executed on 9th April, 2012, the applicants have stepped into the shoes of the 2nd and 3rd petitioners and are entitled to carry on business of partnership after their demise. The applicants have also sought condonation of delay in filing the substitution application (CAN 6 of 2022)

Good grounds being shown, the delay in filing the substitution application being CAN 6 of 2022 is condoned.

CAN 8 of 2022 is thus allowed.

The applicants be substituted in place of the 2nd and 3rd petitioners in the writ petition.

Cause title of the petition be amended accordingly.

CAN 6 of 2022 is allowed.

The applicants in CAN 5 of 2022 pray for restoration of the writ petition which was dismissed by order dated 3rd January, 2019. The applicants have also prayed for condonation of delay in filing the restoration application.

In view of good grounds shown by the applicants the delay in filing the restoration application is condoned.

CAN 7 of 2022 is thus allowed.

Sufficient grounds being made out by the applicants as to their non-appearance before the Court on the relevant date, the restoration application being CAN 5 of 2022 is allowed.

The order dated 3rd January, 2019 passed in W.P.A. 19029 of 2007 is set aside.

W.P.A. 19029 of 2007 is restored to its file and number.

Re: W.P.A. 19029 of 2007

Liberty is granted to the petitioners to add Joint Secretary, Department of Urban Development and Municipal Affairs as 6th respondent in the writ petition. Cause-title of the writ petition be amended accordingly.

The petitioners have challenged the order passed by the O.S.D. & E.O., Deputy Secretary to the Government of West Bengal, being the respondent No. 3, on 4th May, 2007 turning down the prayer of the petitioners for handing over the possession of the plot in question.

The original petitioners were granted lease in respect of the plot in question by virtue of registered deed dated 19th December, 1994 and were requested to take possession of the said plot by the State respondents by letter dated 14th February, 1995. The original petitioners failed to comply with the said letter and by letters dated 18th December, 2006 and 19th January, 2007 expressed their inability to take possession of the plot and

requested the Authority to make over possession in their favour.

By the order impugned dated 4th May, 2007 the request of the petitioners was turned down by the Authority.

Learned counsel for the petitioners submits that no cogent reason has been assigned by the Authority for rejection of the request. The Authority, in the order impugned, has referred to Clause 12 of the allotment order which ceases to exist after execution of the deed of lease. The petitioners seek liberty to submit a fresh representation before the Authority stating their contention and pray for direction upon the Authority to consider their said application within a stipulated time frame.

Such request of the petitioners is conceded to by the learned counsel for the State respondents.

In view of the same, the writ petition is disposed of with liberty to the petitioners to submit a comprehensive application before the Authority annexing all

relevant documents indicating the reasons for their inability to take possession of the land in question within due time. Such application be submitted within a fortnight from date.

The 6th respondent shall consider and dispose of the application within two months from the date of receipt of the application after affording reasonable opportunity of hearing to all the interested parties including the petitioners, in accordance with law. In dealing with the representation the 6th respondent shall not be influenced by the order impugned dated 4th May, 2007 and shall consider the contention made out by the petitioners in the application afresh.

The decision taken by the Authority shall be communicated to the petitioners within a week thereof.

W.P.A. 19029 of 2007 is thus disposed of.

There shall be no order as to costs.

Since no affidavit has been invited, allegations contained in the writ petition shall be deemed not to have been admitted.

Urgent certified website copy of the order, if applied for, be given to the parties on compliance of requisite formalities.

(Suvra Ghosh, J.)