

07 29.7.2021

Ct-16

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**WPLRT 29 of 2020
(Via video Conference)
with
I.A No. CAN 2 of 2020
CAN 3 of 2020**

**Babulal Ghosh & Anr.
Vs.
State of West Bengal & Ors.**

Mr. Partha Pratim Roy
... For the Petitioners

Mr. Manoranjan Jana
Mr. Nikhil Chandra Mahata
...For the Private Respondent
nos. 5 to 7

Mr. Soumitra Bandyopadhyay
Mr. Priyabrata Battabyal
... For the State

CAN 3 of 2020(Section 5)

This application has been filed under Section 5 of the Limitation Act for condonation of delay in filing the application for restoration and/or recalling the order dated 24th August, 2020 passed in WPLRT 29 of 2020.

After hearing the Learned advocates for the parties and upon considering the averments made in the said application, we are satisfied that the applicants were prevented by sufficient cause from not filing the application for restoration within the prescribed time limit. We, thus, condone the delay in filing the application.

The application for condonation of delay being CAN 3 of 2020 is thus, allowed without any order as to costs.

CAN 2 of 2020(Recalling)

The Learned advocate for the private respondents/applicants submits that taking

advantage of order dated 24th August, 2020 whereby the private respondents were restrained from creating any third party interest in the suit property, the writ petitioners are trying to demolish the dwelling house in which they are residing. However, we do not find any such averments in the application. On the contrary, we find that they are living in the house claiming to be the dwelling house.

Learned counsel for the private respondents submits on perception that the writ petitioners may grab the dwelling house on the basis of the order passed by us. It is needless to mention that we did not give any right to the writ petitioners to grab any property.

The petitioners filed an application before the Tribunal challenging the Mutation proceeding and prayed for interim order restraining the private respondents from encroaching the land of the petitioners. The Tribunal did not record any reason for refusing to pass any interim order.

We did not disturb the possession of either of the parties in this proceeding. We had given reasons for restraining the private respondents from creating any third party interest.

As such, we do not find any reason to recall the order dated 24th August, 2020. However, we request the West Bengal Land Reforms and Tenancy Tribunal to dispose of OA 42 of 2018 as early as possible, preferably within a period of six months from date.

In view of the above, CAN 2 of 2020 is disposed of.

Urgent photostat copy of this order, if applied for, be given to the parties upon compliance of all formalities.

(Hiranmay Bhattacharyya, J.)

(Soumen Sen, J.)

