

14.10.2020
item No.69
Ct. No.10
Saswata

**WPA 7236 of 2010
with
IA no. CAN 1 of 2020
(via video conference)**

**Subal Bera
-vs-
The State of West Bengal & ors.**

Mrs. Sudeshna Basu Thakur
... for the petitioner

Mr. Partha Pratim Roy
... for the State

Petitioner is before this Court against an order directing implementation of an order of annulment of patta.

Learned advocate for the petitioner submits that the order of annulment is under challenge before the concerned DL & LRO. Due to the pandemic, such appeal is not being considered. However, the respondent authorities issued the impugned order seeking to give effect to the order of annulment. She submits that the petitioner would be seriously prejudiced if during the subsistence of the appeal, the order of annulment is given effect to.

Learned advocate appearing for the state points out that, the appeal was not within time. There is an application under Section 5 of the Limitation Act, 1963.

In the facts and circumstances of the case, since the petitioner filed an application seeking to prefer an appeal from the order of annulment before the DL & LRO, albeit with an application under Section 5 of the Limitation Act, 1963, one way or the other the application under Section 5 of the Limitation Act, 1963 is required to be decided. In the event, the application under Section 5 of the Limitation Act, 1963 is decided in favour of the petitioner, then there is always the question of the petitioner succeeding in the appeal and the order of annulment being set aside.

Till such time, the application made by the petitioner before the concerned DL & LRO challenging the order of annulment is decided, it would be appropriate to restrain the authorities from giving effect to the order of annulment.

It is expected that the concerned DL & LRO disposes of the application of the petitioner within a period of four weeks from date of communication of this order.

WPA 7236 of 2020 along with IA no. CAN 1 of 2020 are accordingly disposed of.

(Debangsu Basak, J.)

