

AD 4.
January 21, 2021.
SG

WPA 3143 of 2020

Jiban Mondal
-versus-
The State of West Bengal and others

Mr Debanshu Ghorai
... for the petitioner.

Mr Bipin Ghosh
... for the State.

The petitioner claims that the respondent-authorities have not cleared the petitioner's dues of hire charges for a vehicle of the petitioner. Such dues arose for a period between the years 2013 and 2014. Despite several letters being issued by the petitioner in the meantime and even a communication by the Superintendent of Police, Nadia to the respondent-authorities in support of the petitioner's claim, no steps have been taken by the authorities to clear such dues of the petitioner.

Upon hearing the parties, it is seen that, unfortunately, the claim of the petitioner is time-barred (the limitation for money claims being three years from the arising of cause of action). Although the Limitation Act is not applicable in terms to Constitutional remedies under Articles 226 and 227, it is well-settled that a litigant cannot get indirectly what could not be obtained directly under the law. If the present time-barred claim is entertained, it will open up a

floodgate for litigants, whose claims are hopelessly time-barred, merely to issue a fresh communication to the defendant/respondents and avail the remedy of a writ petition, bypassing the limitation for a suit.

There does not appear any ingredient in the pleadings to explain the inordinate delay in filing the writ petition. There is no component which could give rise to a presumption that the petitioner was wrongly proceeding before a forum having no jurisdiction and/or that the respondent-authorities have acknowledged the petitioner's claim during the relevant period, in order for the petitioner to claim the benefits of extension of the limitation period.

In such view of the matter, although the petitioner might have had a legitimate claim during the limitation period, the same has to be turned down at so late a stage, being hopelessly barred by limitation.

Accordingly, WPA 3143 of 2020 is dismissed without any order as to costs.

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

(Sabyasachi Bhattacharyya, J.)