

23.08.2021
Srimanta
Sl. No. 39
Ct. No. 04

FMA/711/2004
[Via Video Conference]

Biswanath Pramanik
-Vs.-
Namita Pal & Ors.

This first miscellaneous appeal has been preferred in exercise of right of appeal provided by section 43 in West Bengal Premises Tenancy Act, 1997. Appellant had petitioned under article 227 in the Constitution of India, which petition was converted to become the first miscellaneous appeal, pursuant to direction in order dated 8th July, 2004 made by the learned Single Judge.

The petition was filed on 15th April, 2004. In that context we reproduce below order dated 16th July, 2021.

"The first miscellaneous appeal tender is one, which was originally filed as a civil revision petition but converted under order dated 8th July, 2004 passed by the learned Single Judge. Section 43 in West Bengal Premises Tenancy Act, 1997 has proviso under subsection (1). It says that until a Tribunal is so provided, an appeal from final order of the Controller shall lie to the High Court. Keeping aside provisions in West Bengal Land Reforms and Tenancy Tribunal Act, 1997, we require Mr. Chatterjee, learned advocate appearing on behalf of appellant, to inform us as to when the Tribunal under the Tenancy Tribunal Act was constituted and became operational.

List on 26th July, 2021. Appellant will notify respondents enclosing copy of this order."

Registrar, W.B.L.R. & T.T. by letter dated 28th July, 2021 informed Registrar (Judicial) of this Court that the Tribunal had become operational with effect from 12th August, 1998. As such, the appeal was not maintainable in this Court on 15th April, 2004.

The appeal is dismissed as not maintainable. Appellant has liberty to obtain certified copy of impugned order upon replacing same with a photocopy. Thereupon, appellant will be at liberty to prefer the appeal in the Tribunal upon applying for exclusion of time. For consideration of exclusion of time, the appeal must be filed within three weeks from date.

We have passed this order of dismissal of the appeal where appellant goes unrepresented. We have done so because on previous occasions the appeal was passed over since there was no response.

F.M.A. 711 of 2004 is dismissed.

(Arindam Sinha, J.)

(Saugata Bhattacharyya, J.)