

Court No. 24
05.04.2022
(Item No. 285)
(AB)

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A. 4288 of 2022

Sukanta Naskar
VS
The State of West Bengal & Ors.

Mr. Debabrata Saha Roy
Mr. Lakshminath Bhattacharyya
..... for the petitioner
Mr. Susovan Sengupta
Mr. Subir Pal
..... for the State

The petitioner happens to be one of the heirs of a deceased partner of a partnership firm. The partnership deed was executed in the year 2005 with three partners. Out of three partners, one of the partners expired on 18th January, 2016. The son of one of the other partners has also expired.

The petitioner submits that all the heirs of the deceased partner issued “No Objection Certificate” in his favour. It has been submitted that in view of the non-cooperation on the part of the one of the partners of the partnership firm, the partnership deed cannot be reconstituted and the business is suffering.

The petitioner claims to have made a representation before the Sub-Divisional Controller, Food and Supplies, Diamond Harbour on 25th October, 2021 and alleges that the same has not been considered till date.

Learned advocate representing the State respondents have received instructions from the Sub-

Divisional Controller, Food and Supplies wherein it has been mentioned that the heirs of the deceased partner did not intimate about the death of the partner in proper time. It is only on 25th October, 2021, after nearly five years of death of the partner, intimation of death was given to the respondents.

The instruction further mentions that on enquiry it has been revealed that the father of the petitioner has also expired. As the legal heirs of the deceased partners did not bring on record the necessary details in proper time, accordingly steps could not be taken by the Sub-Divisional Controller, Food and Supplies.

As it appears that the relevant documents were not placed before the Sub-Divisional Controller accordingly proper steps could not be taken for consideration of the representation of the petitioner praying for re-constitution of the partnership firm.

In view of the above, leave is granted to the petitioner to make appropriate application before the Sub-Divisional Controller along with all necessary documents with regard to his prayer for re-constitution of the partner firm at the earliest. In the event, such an application is made before the authority concerned, then necessary steps shall be taken to consider and dispose of the said representation strictly in accordance with law within a period of eight weeks from the date of receipt of the representation along with all necessary documents. The Sub-Divisional Controller, Food and Supplies, Diamond

Harbour shall pass a reasoned order and communicate the same to the parties immediately thereafter.

The Sub-Divisional Controller, Food and Supplies shall provide an opportunity of hearing to all the necessary parties prior to taking a decision in the matter.

The surviving heirs of the deceased partner shall take necessary steps for re-constitution of the firm at the earliest, in accordance with law.

The instructions given by the Sub-Divisional Controller, Food and Supplies, Diamond Harbour be retained with the records.

The writ petition stands disposed of.

Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)