

30.08.2022
Item No.2
Court No.6.
S. De

M.A.T. 434 of 2020
I.A. No. CAN 1 of 2022
I.A. No. CAN 2 of 2022

**Neelachal Abasan Cooperative Society Limited &
Anr.
Vs
The State of West Bengal & Ors.**

Mr. Debasish Banerjee,
Mr. Subrata Saha,
Mr. Abhijit Biswas,
Mr. S. Naskar,
...for the appellants.

Mr. Ashim Kr. Routh,
Mrs. Ananya Mondal,
Ms. Manishka Dhar,
...for the respondent nos. 6 to 12.

Mr. Satyajit Talukdar,
Mr. Abhishek Sarkar,
...for the K.M.D.A.

Mr. Lalit Mohan Mahato,
Mr. Supratim Dhar,
...for the State.

In re : I.A. No. CAN/1/2022

This is an application for condonation of delay of 152 days in filing the appeal. Causes shown being sufficient, the delay is condoned.

I.A. No. CAN 1 of 2022 is, accordingly, disposed of.

In re : MAT 434 of 2020 & I.A. No. CAN/2/2022

By consent of the parties, the appeal and the stay application are taken up together for hearing.

This appeal is directed against two orders dated July 30, 2019 and September 17, 2019.

By the order dated July 30, 2019, the writ petition was disposed of. By the subsequent order, certain corrections were made not touching the merits of the earlier order by which the writ petition was disposed of.

It appears that the land of the writ petitioners had been acquired by the State. The requiring body was the Kolkata Metropolitan Development Authority. The acquisition was quashed by a learned Single Judge of this Court. The land involved is Dag No. 2426 in Mouja-Kasba, Khatian No.1374. By the order dated July 30, 2019, the learned Single Judge directed as follows :-

“I direct that the petitioners shall produce the original deed of title to the said plot of land being dag no. 2426 in Mouza Kasba under the aforesaid Khatian or under CS khatian within a period of fortnight from the date of communication of this order before the respondent authorities (being the respondent no.5) and the respondent no.5 shall on satisfaction of the identity of the land and ownership of the writ petitioners return the land to the writ petitioners and/or their legal representatives within a further

period of seven days from the date of production of the said deed. It is needless to mention the respondent shall cooperate with the petitioners to allow them ingress and egress of the said property on the basis of this order on the strict assurance that the interest of the respondent no.7 shall not be affected by this order.”

Being aggrieved the respondent no.7 in the writ petition has come up in appeal. It is submitted on behalf of the appellants that the State and K.M.D.A. are contending that Dag No. 2426 falls within the area owned and possessed by the appellants. The authorities are seeking to demarcate the land belonging to and in possession of the appellants.

We are not inclined to go into the merits of the controversy between the parties. We notice that on July 30, 2019, when the writ petition was disposed of, the respondent no.7 in the writ petition being the appellant before us, was not represented nor was the respondent no.7 represented on September 17, 2019. The appellant says that the address in the cause title of the writ petition was deliberately printed wrongly so as to ensure that actual service is not effected on the respondent no.7. Hence, the respondent no.7/appellant herein had no knowledge of the writ petition or the orders which are impugned herein and

the appellants came to know of these orders much later.

As aforesaid, we are not inclined to go into the merits of the contentions of the respective parties. Since the orders impugned herein were passed ex parte in so far as the appellant herein is concerned, the appellant may approach the learned Single Judge with an appropriate application explaining its absence on the days the two impugned orders were passed. If such an application is made, the learned Judge is requested to consider the same, in accordance with law.

The appellants seek interim protection saying that notice has been issued requiring the appellants to hand over possession of Dag No.2426 to K.M.D.A./State. The appellants will be at liberty to pray for appropriate relief before the learned Single Judge.

The appeal being MAT 434 of 2020 is, accordingly, disposed of along with the application being I.A. No. CAN 2 of 2022.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance with all the necessary formalities.

(Shampa Dutt (Paul), J.)

(Arijit Banerjee, J.)