

February 2, 2022
Sl. No.5
Court No.1
SG/s.biswas

MAT 436 of 2020
with
CAN 1 of 2021
+
CAN 2 of 2021

Jadupati Gayen and others
vs.
The State of West Bengal and others

Mr. Mukteswar Maity, Advocate

... for the appellants

Since there is a delay of 132 days in filing this appeal, an application for condonation of delay being CAN 1 of 2021 has been filed.

Having regard to the circumstances of the case, we are of the opinion that the delay has been sufficiently explained. Accordingly CAN 1 of 2021 is allowed and delay in filing the appeal is condoned.

In this appeal the appellants have challenged the order of learned single Judge dated 08.11.2019 whereby WP 24315 (W) of 2018 has been dismissed.

The submission of learned counsel for the appellants is that the appellants are the recorded owners of the property in question and they have been illegally dispossessed, therefore the writ court ought to have interfered in the matter instead of taking the view that it is a civil dispute.

Having heard learned counsel for the appellants and on perusal of the record, it is noticed that the writ petition was filed by the petitioners raising the grievance

that they were illegally dispossessed by the private respondents, though they are the lawful owners of the property in question.

Learned single Judge after examining the record has found that the appellants at best are the part owners of the property concerned. The dispute which the appellants are raising is a civil dispute where the appellants are required to approach the Court of competent jurisdiction and establish their right by adducing the evidence in support of their claim.

Hence, we are of the opinion that learned single Judge has not committed any error in refusing to interfere in the matter. We do not find any reason to interfere in the order of learned single Judge.

The appeal is accordingly dismissed.

With the above observations, CAN 2 of 2021 is dismissed as infructuous.

We make it clear that dismissal of this appeal will not come in the way of the appellants in prosecuting their other civil and criminal remedies.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties on usual undertaking.

[Prakash Shrivastava, C.J.]

[Rajarshi Bharadwaj, J.]