

16.
27-04-2022
debajyoti
(Ct. no.06)

MAT 529 of 2022
+
IA NO:CAN/1/2022
+
CAN/2/2022

Smt. Pratima Gayen
Vs.
The State of West Bengal & Ors.

Mr. Supratik Shyamal,
Mr. Dilip Kumar Shyamal
... For the Appellant.

Mr. Chandi Charan De,
Mr. Anirban Sarkar
... For the State.

Re : CAN 1 of 2022

This is an application for condonation of delay. It appears from the report of the Additional Stamp Reporter that the appeal is in time and in form. This application, therefore, has been rendered infructuous.

The application being CAN 1 of 2022 is disposed of.

Re : MAT 529 of 2022 & CAN 2 of 2022

The appellant has preferred this appeal against the order of the learned Single Judge dismissing her writ petition.

The appellant says that she was an encroacher on Government land. The land, which she occupied, has been taken away for construction of a high level bridge. The Government has formulated a policy of compensating the encroachers who have lost land for

the benefit of that project. In the list prepared by the Government, the appellant is also named. However, the compensation amount has not been paid to her.

The learned Single Judge dismissed the writ petition solely on the ground that the appellant was an encroacher on PWD's land and as such, according to the learned Judge, the appellant should have no claim to compensation.

In view of the documents disclosed by the appellant, we are of the opinion that the State should bring its stand on record by filing an affidavit. However, such affidavit be filed before the learned Single Judge to whom we are remanding back the matter for fresh consideration. Let such affidavit be filed within a week from date; reply thereto, if any, be filed within a week thereafter. The learned Judge having determination in the matter is requested to hear the writ petition afresh after taking into consideration the affidavits to be filed before him.

We make it clear that we have not gone into the merits of the appellant's claim. The learned Single Judge will be at liberty to decide the matter in accordance with law.

The order under appeal is set aside. The appeal being MAT 529 of 2022 and the application being CAN 2 of 2022 are, accordingly, disposed of.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties on compliance of necessary formalities.

(Kausik Chanda, J.)

(Arijit Banerjee, J.)