

20.04.22
Sl-17
Ct.32
(S.R.)

**In The High Court At Calcutta
Civil Appellate Jurisdiction
Appellate Side**

**MAT No.396 of 2017
Abu Hena Mostafa Kamal**

v.

The State of West Bengal & Ors.

with

**CAN No.1 of 2017 (Old CAN No.7998 of 2017)
and**

CAN No.2 of 2017 (Old CAN No.8318 of 2017)

Ms. Reshmi Ghosh

Mr. Golam Mohiuddin

... for the appellant.

The present appeal has been preferred challenging an order dated 17th January, 2017 passed in W.P. No.23706 (W) of 2014.

As we have invited Ms. Ghosh, learned advocate appearing for the appellant to argue on merits of the appeal, the delay in filing the appeal is condoned and the application for condonation of delay being CAN No.1 of 2017 (Old CAN No.7998 of 2017) is allowed.

Ms. Ghosh submits that no copy of the decision taken in the 12th meeting of the respondent no.4 dated 15th December, 2010, rejecting the writ petitioner's application for registration of an existing well was communicated to the writ petitioner/appellant. Such fact was not taken into consideration by the learned Single Judge and the writ petition was disposed of by the order dated 17th January, 2017, at the motion stage and

without calling for affidavits.

Answering our query as to why the appellant did not avail the liberty as granted by the learned Court to apply afresh, she submits that filing of an application afresh would have been an idle formality.

No one appears today on behalf of the respondents.

A composite reading of the order impugned in the present appeal reveals that as a stand was taken on behalf of the State that the appellant's application was rejected due to improper filing of the application, the appellant was granted liberty to apply afresh under the provisions of the West Bengal Ground Water Resources (Management, Control and Regulation) Act, 2005 and the Rules thereof. The learned Single Judge stated the reason towards grant of such liberty and also observed that in the event such application is submitted, the authorities shall consider and decide the same in accordance with law.

The argument as advanced on behalf of the appellant that submission of an application afresh would have been an idle formality is not acceptable to us.

We do not find any infirmity in the order impugned and, accordingly, the appeal and the connected stay application being CAN No.2 of 2017 (Old CAN No.8318 of 2017) are dismissed.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, upon compliance of all requisite formalities.

(Sugato Majumdar, J.)

(Tapabrata Chakraborty, J.)