

12.04.2022
Item No.15.
Court No.6.
AB

M.A.T. 488 of 2021
With
IA CAN 1 of 2021
IA CAN 2 of 2021

Puspa Barik @ Pushpa Barik
Vs
The State of West Bengal & Others

Mr. Tanmoy Chowdhury,
Ms. Ritoprita Ghosh ...for the Appellant.

Sk. Mujibar Rahman,
Mr. Benazir Ahmedfor the State.

By consent of the parties, the appeal and the applications are taken up for hearing.

Affidavit of Service filed in Court today be kept on record.

In re : I.A. CAN 1 of 2021

This is an application for condonation of delay of 29 days in filing the appeal. Causes shown being sufficient, the delay is condoned.

I.A. CAN 1 of 2021 is, accordingly, disposed of.

In re : MAT 488 of 2021

This appeal is preferred by the writ petitioner against the learned Single Judge's order dated February 15, 2021, whereby the writ petition was dismissed.

The appellant says that she was the beneficiary of a housing scheme, namely, Basic Services for Urban Poor Scheme-II. A house was built with the money

sanctioned under the said scheme in favour of the appellant, on the land of the private respondent, who is a relative of the appellant. After the construction of the house was complete, the private respondent has forcibly driven her out of that house. The appellant has approached the Municipality but in vain. Having no other alternative, the appellant approached the Writ Court.

The learned Single Judge has dismissed the writ petition observing that the dispute involved is purely civil in nature. The Writ Court cannot conveniently adjudicate such dispute. The learned Judge has granted liberty to the writ petitioner to approach the appropriate forum in accordance with law.

The appellant says that she is financially extremely weak. She was the beneficiary of the scheme. It was because of her that money was sanctioned for construction of the house in question. Now, that the house is complete, her relative being the private respondent has forcibly taken possession of the entire house and has rendered her homeless. She prays that some relief may be granted to her.

We have full sympathy with the writ petitioner/appellant. However, the dispute indeed appears to be of civil nature, which the Writ Court cannot entertain. We see no infirmity as such in the order of the learned Single Judge.

However, we are told that the appellant has made a representation to the Baruipur Municipality on January 29, 2019. We direct the Chairman of the said Municipality to consider the said representation of the appellant, copy whereof is annexed at page 23 of the stay petition, and take a decision thereon in accordance with law, after giving an opportunity of hearing to both the writ petitioner/appellant and the private respondent. Let such decision be taken within eight weeks from the date of a copy of this order along with a copy of the representation being received by the Chairman of the Municipality from the appellant.

If the Chairman of the Municipality finds that there is merit in the grievance of the appellant and the Municipality is in a position to grant redressal, then appropriate order may be passed by the Municipality.

Since we have not called for affidavits, the allegations in the stay application are deemed not to be admitted by the respondents.

MAT No.488 of 2021 stands disposed of along with IA CAN 2 of 2021.

Urgent Photostat Certified copy of this order, if applied for, be supplied expeditiously after complying with all necessary legal formalities.

(Krishna Rao, J.)

(Arijit Banerjee, J.)