

09.06.2022

**MAT 1249 of 2021
With
CAN 1 of 2021
With
CAN 2 of 2021**

**Julfikar Ali @ Julfikar Ali Mondal
Vs.
The State of West Bengal & Ors.**

Mr. Mukteswar Maity
Ms. Manika Sarkar

... for the appellant

Mr. Sk. Md. Galib
Mr. Sayan Ganguly

... for the State

Affidavit of service filed by the appellant is taken on record.

In Re: CAN 1 of 2021

There is a delay of 64 days in filing this appeal. Hence, CAN 1 of 2021 has been filed by the appellant with a prayer to condone the delay.

Having regard to the explanation which has been furnished in the application, we are of the opinion that the appellant was prevented from filing the appeal within time on account of bona fide reason.

Hence, CAN 1 of 2021 is allowed and delay in filing the appeal is condoned.

In Re: MAT 1249 of 2021

This appeal is at the instance of the writ petitioner challenging the order of the learned Single Judge dated 18.08.2021 whereby WPA 3371 of 2021 has been disposed of with certain observations and directions.

The appellant had approached the Writ Court with the plea that he had purchased the plot in question by a registered deed dated 04.01.1971 and name of the private respondent no.11 was originally recorded in the revenue record and after certain proceedings the appellant had succeeded and on the direction of the appellate authority the name of the appellant was recorded in the year 2019 in the L.R. Record-of-Right. Thereafter, the private respondents had threatened and disturbed the peaceful possession of the appellant. Therefore, initially the appellant had made complaint and then filed the writ petition seeking a direction to the official respondents to take action against the private respondents on the basis of his complaint and also to render necessary police assistance to the appellant.

Learned Single Judge after considering the respective plea of the parties has reached to the conclusion that a civil suit has already been filed by the private respondents and that the dispute between the appellant and the private respondents is of purely civil nature.

Learned counsel for the appellant has mainly argued against the direction to take steps under Section 211 of the IPC.

Having perused the record and considering the nature of dispute between the parties we are of the opinion that the learned Single Judge has not committed any error in reaching to the conclusion that the dispute is

of civil nature. Further we find that after recorded the said conclusion learned Single Judge has further directed for enquiry on the complaint of the appellant and has observed that if it is found after preliminary enquiry that the allegations made by the appellant do not constitute a cognizable offence then under Section 211, IPC suitable steps must be taken by the concerned police station. The said observation of the learned Single Judge was not warranted in the facts of the case. The matter had come to an end when the learned Single Judge had found that the dispute is of civil nature, on the basis of which the writ petition was not maintainable.

In the aforesaid circumstances, we set aside the direction of the learned Single Judge in respect of taking suitable steps under Section 211 of the IPC in case of contrary preliminary record. However, we make it clear that if independently any such case is made out for initiating that action then this order will not come in the way.

With the aforesaid direction the appeal is disposed of.

All the connected application are also disposed of.

(Prakash Shrivastava, C.J.)

(Rajarshi Bharadwaj, J.)