

S/L 25
30.03.2022
Court No.6
SD

MAT 1259 of 2019
With
CAN 1 of 2019
(Old CAN 11023 of 2019)
With
CAN 2 of 2019
(Old CAN 11024 of 2019)

Simultala Bazar Samiti
Vs.
Umang Apartments Private Limited & Ors.

Mr. Debashis Banerjee

...for the Appellants.

Mr. Soumik Ganguli
Mr. Diptendu Banerjee
Ms. Sinthia Bala
Mr. Sayan Roy

...for the Respondent Nos.1 to 9.

Mr. Alok Kr. Ghosh
Mrs. Sima Chakraborty

...for the K.M.C.

In Re: CAN 1 of 2019 (Old CAN 11023 of 2019):

This is an application of condonation of delay of 255 days in filing the appeal.

Causes shown are sufficient. Delay is condoned.

CAN 1 of 2019 is, accordingly, disposed of.

In Re: MAT 1259 of 2019:-

The appellant seeks to challenge an order of restoration and an order of substitution dated November 16, 2018, passed in the writ petition.

It appears that the original writ petitioner approached this Court claiming implementation of an order dated August 9, 1991, passed in C.O. No. 1186(W) of 1988 for handing over

peaceful and vacant possession of the relevant land in his favour. In the said writ petition, the appellant was impleaded as respondent no.7, since the said respondent was in possession of the land in question.

The writ petitioner died on April 16, 2013, and the writ petition was dismissed for default on June 30, 2016. The respondent nos.1 to 9 thereafter filed an application for restoration of the writ petition being CAN 7724 of 2016 and also an application for substitution being CAN 7725 of 2016 claiming that they have acquired right, title and interest in respect of the said land by virtue of a registered deed of conveyance from the original writ petitioner. Learned Single Judge restored the writ petition and also allowed the application for substitution holding that without adjudicating upon the right, title, and interest of the respondent nos.1 to 9 since there is a claim of the said respondents on the basis of a registered deed of conveyance, it would be appropriate to substitute the deceased writ petitioner with the said respondents.

It has been contended before us by the appellant that learned Single Judge was not justified in restoring the writ petition and in substituting the respondent nos.1 to 9. The writ petition stood abated due to the death of the original writ petitioner.

We do not find any substance in the argument advanced by the appellant.

The respondent nos.1 to 9 sought to be substituted on the strength of a registered deed since they claimed that right, title and interest in respect of the property in question had devolved upon them by such registered deed of conveyance.

In case of devolution of any interest during the pendency of a writ petition, the petition may, with the leave of Court, continue by or against the person upon whom such interest has devolved.

We are of the view that learned Single Judge rightly allowed the application for restoration and the application for substitution.

Accordingly, the appeal and the connected stay application stand dismissed.

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

(Kausik Chanda,J.)

(Arijit Banerjee, J.)