

04.11.2022

WPLRT 134 of 2022

Court : 04
Item : 44
Matter : WPLRT
Status : DO
Transcriber: nandy

Md. Shahid & Ors.
Vs.
Muktar Ahmed @ Muktar & Ors.

Mr. Md. Mokaram Hossain, Advocate
Mr. Sandipan Maity, Advocate

.....for the Petitioners

Mr. M.P. Gupta, Advocate
Mr. Ayan Mitra, Advocate
Mr. Chandan Mondal, Advocate

.....for the Private Respondents

Mr. Chandi Charan De, Learned AGP
Ms. Reshmi Rahman, Advocate

.....for the State

Mr. Razzak Hossain, Advocate

.....for the Proforma Respondent

By the impugned order dated August 24, 2017 the Tribunal allowed the application for addition of party which is the subject matter of challenge in the instant writ-petition., The Original Application being OA 1042 of 2013 was dismissed for default and two applications being MA 1085 of 2014 and MA 1086 of 2014 were taken out for restoration of the said tribunal application upon condonation of delay. The said two applications also dismissed for default. A further application was taken out for restoration of the aforesaid two applications which was eventually allowed on August 24, 2017 subject to payment of costs.

It is not in dispute that the costs have been paid. Consequently, the aforesaid two applications being MA 1085 of 2014 and MA 1086 of 2014 were being proceeded with and in course of the hearing it transpires that the State of West Bengal is a necessary party. An application was taken out to implead the State of West Bengal as party-respondent in the said proceeding.

Since the original proceeding stood dismissed for default and the application for restoration as well as condonation of delay are pending, we do not find any infirmity on the part of the Tribunal in impleading the party in the aforesaid applications. The said applications are akin to an application under Order 9 Rule 9 of the Code of Civil Procedure and even if those are registered as Miscellaneous application yet it does not lose its existence under the aforesaid Rules.

Since the Private Respondents do not raise any objection rather consented in the impleadment of the State of West Bengal as party-respondent, we do not find any justification in interfering with the impugned order. However, we feel that the aforesaid two applications which have been filed way back in the year 2014 and restored in the 2017 should not remain pending for indefinite period.

We, therefore, direct the Tribunal to fix a date for hearing those applications which should not exceed fifteen days from the date of communication of this order and shall try to dispose of the same within a month therefrom after affording an opportunity of hearing to the respective parties and by recording proper reasons in accordance with law.

With these observations, the writ-petition being **WPLRT 134 of 2022** is **disposed of**. No order as to costs.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)

