

30.09.2022
Item Nos.7&8.
Court No.6.
S. De

M.A.T. 1629 of 2022
with
I.A. No. CAN/1/2022
I.A. No. CAN/2/2022
I.A. No. CAN/3/2022

Bajitpur Colony Fisherman Co-operative Society
Ltd. & Anr.
Vs
NEEB SSD & Ors.

And

M.A.T. 1630 of 2022
with
I.A. No. CAN/1/2022
I.A. No. CAN/2/2022
I.A. No. CAN/3/2022

Bijli Matshya Utpadan Group & Anr.
Vs
NEEB SSD & Ors.

Mr. Anjan Bhattacharya,
Ms. Anita Shaw,

...for the appellants in both
the appeals.

Mr. Chandi Charan De, Ld. Addl. Govt. Pleader,
Mr. Anirban Sarkar,

...for the State respondents in
both the appeals.

Mr. Srijib Chakraborty,
Mr. Sunny Nandy,
Mr. Subha Pathak,
Mr. Tamal singha Roy,

...for the respondent nos. 1&2 in
MAT 1630 of 2022.

By consent of the parties, both the appeals and
the connected applications are taken up together for
hearing and are disposed of by this common judgment

and order as both the appeals are directed against the same order.

In re : CAN 1 of 2022 (in MAT 1629 of 2022)
& CAN 2 of 2022 (in MAT 1630 of 2022)

The judgment and order dated August 16, 2022 whereby W.P.A. 6986 of 2022 was disposed of, is sought to be challenged by the appellants in these two appeals. The appellants were not made parties before the learned Single Judge. They say that they are vitally affected by the order. The learned Single Judge has set aside the order by virtue of which two water bodies namely Dudhkunda and Rangamatia were leased out to the appellants for the purpose of carrying on pisciculture business. The appellants say that the writ petitioner ought to have added them as parties since they are the persons who are most vitally affected by the impugned order. We agree with Mr. Bhattacharyya, learned counsel for the appellants. Leave is granted to prefer these two appeals.

I.A. No. CAN 1 of 2022 (in MAT 1629 of 2022) and I.A. No. CAN 2 of 2022 (in MAT 1630 of 2022) are, accordingly, disposed of.

In re : CAN 3 of 2022 (in MAT 1629 of 2022)
& CAN 3 of 2022 (in MAT 1630 of 2022)

These are applications for condonation of delay of 12 days in filing the appeals. Causes shown being sufficient, the delay is condoned.

I.A. No. CAN 3 of 2022 (in MAT 1629 of 2022) and I.A. No. CAN 3 of 2022 (in MAT 1630 of 2022) are, accordingly, disposed of.

In re : MAT 1629 of 2022, CAN 2 of 2022 And MAT 1630 of 2022, CAN 1 of 2022.

The case concerns leasing out of two water bodies, namely, Dudhkunda and Rangamatia for pisciculture business following tender process.

In an earlier round of litigation, the present appellants had challenged selection of the present writ petitioner for leasing out of the aforesaid water bodies. The writ petition was disposed of by directing the relevant District Magistrate to consider the matter afresh and pass an order. Pursuant to such direction, the District Magistrate has passed an order on March 30, 2022 which was impugned by the present writ petitioner before the learned Single Judge.

The main ground on which the writ petition was filed was that March 30, 2022 was a State Government holiday and the District Magistrate ought not to have held any hearing or should not have passed any order on that day. The learned Judge set aside the order of the District Magistrate and remanded the matter to the District Magistrate for fresh consideration.

We have heard learned counsel for the parties. We are of the opinion that the writ petitioner ought to have impleaded the present appellants as party

respondents in the writ petition. They surely knew that if their writ petition succeeds, the parties who will be most vitally affected, would be the present appellants. In spite of the same, the writ petitioner chose not to add the present appellants as party respondents and filed the writ petition behind their back.

We are not entering into the merits of the case. The principles of natural justice require that the present appellants are heard or given an opportunity of hearing before any order is passed on the writ petition since such order may have adverse civil consequences for the present appellants. Solely on the ground of breach of natural justice, we set aside the order under appeal and remand the matter to the learned Single Judge with a request to decide the writ application after giving an opportunity of hearing to the present appellants.

To save time, we add the present appellants as party respondents to the writ petition.

The department shall carry out necessary amendment to the cause title of the writ petition within three weeks from date. The added respondents would be at liberty to file affidavit-in-opposition to the writ petition within one week after the ensuing Puja Vacation. Reply, if any thereto, be filed within a week thereafter. The parties would be at liberty to request

the learned Judge having determination to hear the writ petition for early hearing. The learned Judge may consider such request to the extent the business of the Court may permit. We repeat that we have not considered the merits of the case at all and it is for the learned Judge to decide the writ petition on merits.

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

M.A.T. 1629 of 2022 and M.A.T. 1630 of 2022 are, accordingly, disposed of along with the applications being I.A. No. CAN 2 of 2022 and I.A. No. CAN 1 of 2022.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance with all the necessary formalities.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)