

OD-1

ORDER SHEET

RVWO/4/2022

With

WPO/470/2022

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

MIRA BANERJEE AND ANR.

Versus

STATE OF WEST BENGAL AND ORS.

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date : 4th April, 2022.

Appearance:

Mr. Tapas Dutta, Adv.

For the petitioners.

Mr. Subhabrata Datta, Adv.

Mr. Debashis Sarkar, Adv.

Mr. Paritosh Sinha, Adv.

For the State.

Mr. Ujjal Ray, Adv.

Mr. Soumen Mukherjee, Adv.

For the respondent no. 6.

Mr. Biswajit Mukherjee, Adv.

Ms. Manisha Nath, Adv.

For the K.M.C.

The Court:- The petitioners have sought to re-argue the point of jurisdiction of the arbitrator in passing the award by urging the Court to review the order dated February 25, 2022. The petitioners had filed the writ petition for setting aside the award passed by the Joint Registrar of Co-operative Societies, RTAH Cell and for payment of compensation of

Rs. 40,00,000/- (forty lakhs) by the respondents on the ground of delay in disposal of the arbitration proceedings by the learned sole arbitrator.

This Court heard the matter with regard to the prayer for compensation on account of the alleged delay committed by the learned arbitrator. The court refused to grant any compensation to the petitioners. The petitioners were granted liberty to challenge the correctness of the award in accordance with law, before the appropriate forum by filing a statutory appeal.

By this review application, the petitioners urge as follows:-

- a) The Arbitrator had failed to pass the award within the statutory period.
- b) The proceedings before the learned Arbitrator had become a nullity in view of the expiry of statutory period, within which the proceedings were supposed to be concluded.

This Court is of the opinion that the entire award and legality of the same including the question of the nullity as raised in the writ petition are to be urged in the statutory appeal.

The petitioners are at liberty to prefer the statutory appeal as per law and if such appeal is filed, the same shall be decided.

This Court did not go into the merits of the award in its order, in view of the alternative remedy. The grounds for review touch the merits of the award, which were available to the petitioners, if the petitioners had chosen to prefer the statutory appeal.

In this case, the grounds for review do not exist. It is not a case where new and important materials have been discovered which would require reconsideration of the entire matter. It is also not a case where mistakes or errors apparent on the face of the order were visible. The petitioners want the court to revisit the award on merits, which is not permissible in view of a statutory remedy by way of an appeal.

The court decided the prayer for compensation, but granted liberty to the petitioners to approach the appellate authority regarding the merits of the award.

Thus there are no grounds to review the order dated February 25, 2022.

The review application (RVWO No.4 of 2022) is disposed of.

(SHAMPA SARKAR, J)