

Dd 11 17.07.2023

WPLRT 24 of 2023

***Shaunak Properties Pvt. Ltd.
Vs.
The State of West Bengal & Ors.***

*Mr. Saptangsu Basu, Sr. Adv.
Mr. Reetobrata Kumar Mitra,
Mr. Rudrajit Sarkar,
Mr. Aditya Kanodia, Advocates
... ... For the Petitioner*

*Mr. Somnath Ganguli, AGP
Mr. Balarko Sen Advocates
... ... For the State*

*Mr. Tamoghna Saha, Advocates
... ...For the respondent nos. 4 & 5*

*Mr. Puspendu Chakraborty, Advocate
... ...For HPCL*

Petitioner assails an order dated December 20, 2022 passed in OA 2711 of 2022 (MA 894 of 2022, MA 1042 of 2022 and MA 1043 of 2022).

Apparently, the original application was filed including a natural person as respondent no. 4 who expired prior to the filing of the original application. In fact, the respondent no. 4 expired prior to the initiation of the proceedings.

On discovery of such fact, the petitioner filed MA 1042 of 2022 seeking to substitute the deceased respondent no. 4. Such application being MA 1042 of 2022 was dismissed along with original application and the other pending applications on the ground that since the original application was directed against a natural person who expired prior to the filing of the original application, therefore MA 1042 of 2022 itself was void *ab initio* and nullity.

With respect, there are three other respondents who in the original application other than the respondent no. 4. It cannot be said on the strength of the arrangement of the parties in the original application that, the original application was a nullity as against all the respondents.

In our view, ends of justice would be subserved by allowing MA 1042 of 2022. The death of the respondent no. 4 in OA 2711 of 2022 is recorded. The respondent no. 4 be substituted with his legal heirs and representatives as stated in MA 1042 of 2022.

OA 2711 of 2022 along with other pending applications apart from MA 1042 of 2022 are remitted to the learned tribunal for reconsideration and decision on merits. Learned tribunal will add the legal heirs and representatives of the deceased respondent no. 4 as mentioned in MA 1042 of 2022 to OA 2711 of 2022. Learned tribunal will treat MA 1042 of 2022 as disposed of.

We clarify that we did not decide on the validity of the proceeding initiated prior to the approach to the tribunal being made. We keep such point open. We only permitted the petitioner to ventilate the grievances before the tribunal. All points raised by the parties are kept open.

State and the heirs of the deceased respondent no. 4 are represented.

With the aforesaid observations, the impugned order dated December 20, 2022 is set aside.

WPLRT 24 of 2023 is **disposed of** without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)