

06.12.2023
Item No.53
Ct. No.5
CHC

F.MA.582 of 2022
IA NO:CAN/1/2022
CAN/2/2022

Kalipada Nandi
Vs.
The State of West Bengal & ors.

Mr. K. D. Poddar,
Mr. A. K. Dutta
...for the appellant

IA NO:CAN/2/2022 is an application for condonation of delay of 50 days in preferring the appeal.

For the ends of justice we allow the same.

IA NO:CAN/1/2022 is an application for stay of the impugned judgment and order.

The appellant seeks to prefer an appeal from an order dated January 21, 2022 passed in WPA 15000 of 2021.

By the impugned order, learned Single Judge, dismissed the writ petition on the ground of availability of alternative remedy.

We propose to deal with the appeal itself without requiring the appellant to serve notice of the

appeal or the applications upon the respondents in view of the startling facts brought on record.

The appellant bought motor vehicle. The product bought by the appellant is governed by an order of the Hon'ble Supreme Court dated March 27, 2020. Appellant bought the motor vehicle on May 21, 2020. Purchase was from private respondent.

Supreme Court by the order dated March 27, 2020 set a deadline on the sale of BSIV vehicle. Purchase of the petitioner was made beyond the time period prescribed.

In the writ petition, the appellant, sought a direction upon the respondents authorities to register the motor vehicle concerned.

The learned Judge found that the appellant as a writ petitioner was not entitled to any relief on the ground of availability of alternative remedy.

It is the contention of the appellant that existence of alternative remedy is not a complete bar to the maintainability of a writ petition.

No doubt, existence of alternative remedy is not a complete bar to the maintainability of a writ petition. A writ petition is maintainable notwithstanding the existence of statutory alternative when, the authorities acted beyond jurisdiction, the fundamental rights of the writ petitioner stands affected, the action of the authority is in breach of the

principles of natural justice, causing prejudice to the writ petitioner, the action of the respondents complained of is arbitrary or capricious.

Here, the appellant purchased a motor vehicle at a point of time when, registration of such motor vehicle was barred by an order passed by the Supreme Court.

Ignorance of law cannot be a valid plea. Appellant cannot justifiably claim that she was unaware as to the legal impediment.

Appellant purchased the motor vehicle from a private operator. State did not hold out any promise of registration of motor vehicle which was barred by an order of the Supreme Court.

At best, the appellant before us may possess a right to claim damages as against the dealer who sold the motor vehicle to her. Such cause of action does not result in any violation of any legal right of the appellant warranting interference by a Writ Court under Article 226 of the Constitution of India. No State authority or an Article 12 authority was involved in violating any legal right of the appellant.

In such circumstances, we find that no ground being made out by the appellant calling for interference in appeal.

CAN/1/2022 along with FMA 582 of 2022
are dismissed without any order as to costs.
CAN/2/2022 is allowed.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)