

**IN THE HIGH COURT AT CALCUTTA  
CONSTITUTIONAL WRIT JURISDICTION  
APPELLATE SIDE**

Present:

**The Hon'ble Justice Debangsu Basak**

And

**The Hon'ble Justice Md. Shabbar Rashidi**

**WPLRT 49 of 2023**

**Kuber Tradecom Pvt. Ltd. & Ors.**

**VS.**

**The State of West Bengal & ors.**

For the Writ Petitioner : Mr. Krishnendu Goptu,  
Mr. Asim Hati,  
Mr. Kanailal Kanji,  
Ms. Nandini Sharma

For the respondent no. 6: Mr. M. K. Ghosh,  
Mr. G. C. Das  
Mr. Kapil Sahoo  
Mr. K. Das

For the State : Mr. T. M. Siddiqui,  
Mr. S. Dhar

Hearing concluded on : 12.06.2023

Judgement on : 12.06.2023

**DEBANGSU BASAK, J.:-**

1. The writ petition is directed against an order dated February 23, 2023 passed by the West Bengal Land Reforms and Tenancy Tribunal.

2. By the impugned order, the learned Tribunal was pleased to hold that, there was no ground for condonation of delay. There was no prayer for condonation of delay. Consequently, MA 160 of 2019 as well

as the original application were required to be dismissed and were actually dismissed.

3. Learned advocate appearing for the writ petitioner submits that, there was no question of condonation of delay since, the writ petitioner became aware of an order dated April 27, 2017 passed by the District Land and Land Reforms Officer (DL&LRO) in the first week of February, 2018. He submits that, averments to such effect were in the body of the original application. He contends that, the limitation will run from the date of knowledge and not from the date of the order assailed. In support of such contention, he relies upon **2007(2) CHN 142 (Falakata Industries Ltd. & Anr. Vs. State of West Bengal)** and particularly to paragraphs 9.1 and 9.2 thereof.

4. Learned Additional Government Pleader appearing for the State submits that, the original application of the writ petitioner was hopelessly barred by the laws of limitation. The order impugned in the original application was dated April 27, 2017. The original application was sought to be filed on March 2, 2018. He draws the attention of the Court to the fact that, notice of the proceedings before the concerned DL&LRO was given to the writ petitioners. Despite such notice, the writ petitioners chose not to appear in such proceedings.

5. Learned advocate appearing for the private respondent submits that, the question of limitation is from the date of the order impugned and not from the date of knowledge thereof. He refers to Section 10 of

the West Bengal Land Reforms and Tenancy Tribunal Act, 1997. He submits that, an application before the learned Tribunal is required to be made within sixty days from the date of the order impugned. In the facts of the present case, the order impugned was dated April 27, 2017. The original application was filed on March 2, 2018. Admittedly, the original application was beyond the period of limitation prescribed.

6. Learned advocate appearing for the private respondent submits that, the writ petitioners did not file any application for condonation of delay. According to the writ petitioners, there was no delay in filing the original application. The contention of the writ petitioners that there was no delay in filing the original application is *ex facie* bad.

7. Relying upon a judgment of the Coordinate Bench rendered on August 1, 2019 passed in WPLRT 84 of 2019 (**Hirak Ranjan Bera & Ors. Vs. State of West Bengal & Ors.**), he submits that, although, a writ petitioner need not file any separate application for condonation, a prayer for condonation is required to be incorporated in paragraph 8 of the original application. He draws the attention of the Court to the original application and contends that, the paragraph 8 thereof does not contain any prayer for condonation of delay.

8. Learned advocate appearing for the writ petitioners, in reply, submits that, since, the original application was within the period of limitation prescribed and since, the period of limitation is to be construed from the date of knowledge and not from the date of the order

impugned there was no necessity of incorporating any prayer for condonation of delay.

9. Admittedly, the writ petitioner approached the learned Tribunal on March 2, 2018 assailing an order dated April 27, 2017 passed by the concerned DL&LRO.

10. The orders dated April 27, 2017 assailed before the learned Tribunal were in respect of four appeals heard by the concerned DL&LRO in LR Appeal Nos. 15, 16, 17 and 18 of 2017.

11. Section 10 of the Act of 1997 is relevant in the context of limitation as contended by the rival parties. Section 10 of the Act of 1997 is as follows:

**“10. Application to Tribunal.** - (1) Subject to the provisions of section 6 and other provisions of this Act, a person aggrieved by any order passed by an Authority or any action taken either by an Authority or by the State Government may prefer an appeal to the Tribunal for the redressal of his grievance.

(2) Every application under sub-section (1) shall be made within sixty days from the date on which such order was passed or such action was taken, as the case may be, or within such further time as may be allowed by the Tribunal for cause shown to its satisfaction, and shall be made in such form, and shall be accompanied by such fee, as may be prescribed.

(3) Save as expressly provided in this Act, the Tribunal shall not admit an application referred to in sub-section (1) unless it is satisfied that—

- (a) the application has availed of all remedial measures available to him under the relevant specified Act, and
- (b) the remedial measures available under the provisions of the relevant specified Act are not adequate or shall cause undue hardship to the applicant.

(4) The Tribunal may, if it is satisfied after such enquiry as it may deem fit that requirements under this Act and the rules made thereunder are complied with in relation to the application referred to in sub-section (1), admit such application, but where the Tribunal is not so satisfied, it may reject the application summarily giving reasons therefor.

(5) Where an application under sub-section (1) has been admitted by the Tribunal, it shall decide and dispose of such application as expeditiously as possible, and ordinarily within six months from the date of such admission or from the date of receipt of records from the concerned Authority or the State Government, as the case may be.

(6) While deciding the application under sub-section (5), the Tribunal shall issue such direction, or pass such order, as it may deem fit.

(7) Notwithstanding anything contained in any other provision of this Act or in any other law for the time being in force, no interim order (whether by way of injunction or stay or in any other manner) shall be made on, or in any proceeding relating to, an application made under sub-section (1) unless—

- (a) copies of such application and of all documents in support of the plea for such interim order are duly furnished seven days in advance to each of the parties against whom such application is made or is proposed to be made;
- (b) an opportunity of being heard is given to each of the parties against whom such application is made:

Provided that the Tribunal may pass an interim order as an exceptional measure if it is satisfied for reasons to be recorded in writing that it is necessary so to do for preventing any loss being immediately caused to the applicant:

Provided further that if the application referred to in sub-section (1) is not decided and disposed of within a period of six months from the date of the interim order, the interim order shall, if it is not vacated earlier, stand vacated on the expiry of the period as aforesaid unless, for special reasons or in the interest of justice, the interim

order is varied, modified or extended by the Tribunal.”

12. The gateway portal to a Tribunal established under the Act of 1997 is Section 10. Sub-Section (2) of Section 10 of the Act of 1997 prescribes that, every application under sub-section (1) of Section 10 shall be made within sixty days from the date on which such order was passed or action taken as the case may be or within such further time as may be allowed by the learned Tribunal for causes shown to its satisfaction.

13. Period of limitation prescribed by the Act of 1997 for approaching the Tribunal in respect of an order or an action taken is sixty days from the date of the order or the action taken. Learned Tribunal is empowered under sub-section (2) of Section 10 to enlarge the period on just causes being shown.

14. **Hirak Ranjan Bera & Ors. (supra)** considered the period of limitation and the consideration thereof. It observed that there was no particular form prescribed by the rules framed under the Act of 1997. It observed that, the writ petitioners need not file any separate application. However, prayer for condonation of delay should be incorporated in paragraph 8 of the original application and upon its incorporation, the same is required to be considered.

15. In the facts of the present case, paragraph 8 of the original application and in fact, nowhere in the body of the original application, a prayer for condonation of delay was incorporated at the behest of the writ petitioners. The writ petitioners also did not apply independent of

the original application invoking Section 5 of the Limitation Act, 1963 in condoning the delay in terms of Section 10(2) of the Act of 1997. Limitation Act, 1963 governs the field of the period of limitation applicable while approaching a forum where the statute permitting the approach to such forum is silent on the period of limitation. Where the statute permitting and/or governing the approach to a forum prescribes a period of limitation then the same is attracted.

16. **Falakata Industries Ltd. (supra)** also considers the question of limitation. It notices that Section 10(2) of the Act of 1997 empowers the learned Tribunal to condone delay in filing the original application, to the satisfaction of the causes shown. It also observed that, limitation, therefore, is to be counted from the notices and knowledge of the original applicant.

17. **Falakata Industries Ltd. (supra)** cannot be construed, read and understood to mean that, delay in filing an application, needs to be automatically condoned, albeit in absence of a prayer for condonation, simplicitor on the basis of a claim of the original applicant that notice of the impugned order was received on a particular date. In our understanding, the original application is required to be filed within sixty days from the date of the impugned order or from the date of the action taken, as the case may be. The date of the impugned order and the date of the action taken are the commencement date of the period of limitation. A period of sixty days to file the original application is granted

under Section 10(2) of the Act of 1997 from such date of commencement. Once the original application is filed and the sixty days from the date of such commencement expired at the time of filing, then, the delay in filing of the original application needs to be adequately explained in terms of the provisions of sub-section (2) of Section 10 of the Act of 1997. As noted in **Hirak Ranjan Bera & Ors. (supra)**, separate application for condonation of delay is not required. However, the original application must contain the averments with regard to the condonation of delay and a prayer for the same.

18. In the facts of the present case, the writ petitioner does not contend that the original application was barred by limitation. The stand of the writ petitioners is diametrically opposite to the provisions of Section 10 of the Act of 1997. Writ petitioners contend that despite the period of sixty days prescribed in Section 10(2) of the Act of 1997 expiring from the date of the order impugned, the date of knowledge is the point of commencement of limitation. We are unable to accept such contention. Date of knowledge may be a ground for condonation of delay but certainly would not be the date of commencement of limitation in view of the provisions of Section 10(2) of the Act of 1997.

19. Even otherwise, on facts, we find that, DL&LRO repeatedly noted in its orders that the writ petitioners were issued relevant notices of the pendency of the appeals and that they chose not to appear. This

conduct of the writ petitioners was also noticed by the learned Tribunal while deciding the issue of limitation.

20. We considered the averments in the original application. In paragraph III, the writ petitioners claim that, they received notice of the impugned orders dated April 27, 2017 in the first week of February, 2018. There is no document in support of such contention. In paragraph IV, while dealing with the issue of limitation, the writ petitioners claimed that the original application was within the period of limitation inasmuch as the impugned orders came to the knowledge of the writ petitioners for the first time on February 2, 2018 upon receipt of the notice from the concerned DL&LRO. Again, no document in support of such contention is annexed to the original application. The averments in the body of the original application is that the writ petitioners received certain notices and, thereafter, proceeded to the concerned DL&LRO to obtain certified copy of the impugned order.

21. We are not satisfied with the conduct of the writ petitioners. We also not satisfied with the averments made in the original application so as to hold that they delivered adequate explanation for condonation of delay, particularly in view of the stand taken by the original applicants that the original application was not barred by limitation and, more particularly, in view of prayer for condonation of delay was not made in the original application.

22. In such circumstances, we find no material irregularity in the order passed in the original application.

23. **WPLRT 49 of 2023** is dismissed without any order as to costs.

24. Urgent photostat certified copy of this order, if applied for, be given to the parties on priority basis on compliance of all formalities.

**(Debangsu Basak, J.)**

25. I agree.

**(Md. Shabbar Rashidi, J.)**

KAUSHIK CHATTERJEE