

26.06.2023
Item No.11
Court No.6.
S. De

M.A.T. 997 of 2023
With
I.A. No. CAN/1/2023
I.A. No. CAN/2/2023

Pradip Giri.
Vs
The State of West Bengal & Ors.

Mrs. Sulekha Mitra,
Mr. Manas Kumar Das,
Mr. Aritra Kumar Thokdar,
...for the appellant.
Mr. Sougata Mitra,
Ms. Ankita Dey,
...for the Municipality.
Mr. Rameshwar Sinha,
...for the respondent no.10.
Ms. Sipra Mazumdar,
Ms. Sangeeta Roy,
...for the State.

By consent of the parties the appeal and the connected applications are taken up together for hearing.

In re : I.A. No. CAN/1/2023

This is an application for condonation of delay of twenty-four days in filing the appeal. Causes shown being sufficient, the delay is condoned.

I.A. No. CAN/1/2023 is, accordingly, disposed of.

In re : MAT 997 of 2023 & I.A. No. CAN/2/2023

A judgment and order dated April 13, 2023, is under challenge in this appeal.

The appellant was the private respondent no.9 in the writ petition. The dispute between the parties pertains to felling of trees. It appears that on the basis of the order of the learned Single Judge, the Chairman of Purulia Municipality has issued a letter dated June 1, 2023 calling upon the appellant herein to deposit Rs.9,500/- as an arrear tax for felling the trees in question.

Being aggrieved by the same, the appellant is before us.

We notice that the appellant was not represented before the learned Single Judge on the day the order under appeal was passed. The appellant says that he was never served. Learned advocate for the writ petitioner fairly submits that affidavit-of-service was filed before the learned Single Judge but no track report evidencing actual service on the private respondent no.9 in the writ petition could be produced.

The aforesaid would indicate that there was no proper service on the appellant herein. Accordingly, the appellant would be at liberty to approach the learned Single Judge with an application under Order 9 Rule 13 of the Code of Civil Procedure. If the learned Judge is satisfied that there was in fact no service of the writ petition on the appellant herein, the learned Judge may pass appropriate order as His Lordship

may deem fit and proper. We clarify that we have not entered into the merits of the dispute at all.

The Purulia Municipality is directed not to take any coercive step against the appellant for a period of three weeks from date.

Accordingly, MAT 997 of 2023 is disposed of along with the application being I.A. No. CAN 2 of 2023.

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.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)