

18.10.2023
Item No.19
gd/ssd

MAT/1222/2023
IA NO: CAN/1/2023, CAN/2/2023
BANK OF BARODA AND ORS.
VS
STATE OF WEST BENGAL AND ORS.

Mr. Rahul Sarkar,
Ms. Dipika Sarkar
..for the Appellants.

Mr. Abhishek Banerjee
..for the State.

Re: CAN 2 of 2023

1. CAN 2 of 2023 has been filed by the appellants seeking condonation of delay of 15 days in filing this appeal.

2. Learned counsel for the appellant has referred to the explanation which has been furnished in the application and also has made submission in respect of the explanation for the delay.

3. We find that the delay in filing this appeal has been sufficiently explained and the appellant was prevented from filing the appeal within time on account of bona fide reason.

4. Hence, CAN 2 of 2023 is, accordingly, allowed. The delay in filing the appeal is condoned.

Re: MAT 1222 of 2023

5. The appellant bank had filed the writ petition alleging police inaction and for a direction upon the

police to put back the appellant bank in possession of the property in question which was secured asset in respect of a loan which was advanced to the respondent nos.7 and 8.

6. Admittedly, pursuant to order passed under Section 14 of the SARFAESI Act, the appellant bank was put in possession of the property.

7. Thereafter the respondent nos.7 and 8 are alleged to have forcibly dispossessed the appellant bank.

8. In this regard an FIR was lodged and alleging that no adequate steps have been taken by the police, the appellant had filed the writ petition.

9. The learned Government counsel has produced the written instruction given by the Officer-in-Charge of New Barrackpore Police Station dated 19.07.2023 from which it is seen that already charge-sheet has been laid in Charge-Sheet No.226 of 2019 dated 28.09.2019 on the file of the learned Additional Chief Judicial Magistrate, Barrackpore Court for offences under Sections 188/448 IPC.

10. Therefore, it cannot be stated that there is any police inaction.

11. The learned advocate for the appellants submitted that copy of the charge-sheet has not been furnished.

12. The appellant bank is directed to approach the concerned court and obtain the copy of the charge-sheet.

13. With regard to the observations made by the learned writ court in the impugned order with regard to the certain matters which are pending before the Debts Recovery Tribunal, Kolkata, learned advocate for the appellants submitted that the same is factually incorrect and those cases did not concern the property in question.

14. We also give liberty to the appellants to once again approach the District Magistrate for passing fresh orders with regard to the putting back the appellants in possession. If such application is filed, the District Magistrate shall issue notice to the appellant bank as well as to the respondent nos.7 and 8 and after affording an opportunity of personal hearing, pass appropriate orders on merits and in accordance with law.

15. With the above observations, the appeal stands disposed of.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)