

09.12.2024
Item No.21
BR

**WPA 15234 of 2019
With
IA No. CAN 1 of 2020 (old No. CAN 1574
of 2020), CAN 2 of 2023, CAN 3 of 2023**

Nirmal Halder @ Nemai Halder & Ors.

-vs-

State of West Bengal and ors.

Mr. Subir Kumar Bhattacharya
... for the petitioners

Mr. Touseef Ahamed Khan,
Mr. Murari Chakraborty
.... For the State

Re : CAN 2 of 2023

CAN 2 of 2023 is moved by the learned counsel for the petitioner is an application under Section 5 of the Limitation Act praying for condonation of delay of 236 days in filing the restoration application being CAN 2 of 2023.

Considering the grounds as made out and in the interest of justice, the application for condonation of delay is allowed on the delay being condoned.

Accordingly, CAN 2 of 2023 stands disposed of.

Re : CAN 3 of 2023

CAN 3 of 2023 is moved by the learned counsel for the petitioner praying for recalling the order dated 24.01.2023 by which the present writ petition was dismissed for default.

Considering the grounds made out and in the interest of justice, the restoration application being IA No. 3 of 2023 is allowed. Writ petition being WPA 15234 of 2019 is restored to its original file and number.

Accordingly, CAN 3 of 2023 stands disposed of.

Later.

The present writ petition has been preferred praying for direction upon the

- a) respondents , their men and agents not to encroach the land of the petitioners situated at Mouza-Baradanagar, Dag No. 2099, Police Station-Raidighi, District-South 24 Parganas;
- b) to stop construction immediately on the land of the petitioners being Dag No. 2099 (quantum of land is 1.65 decimal) under Mouza-Baradanagar, Police Station-Raidighi, District-South 24-Parganas;

The petitioner has further prayed that respondent nos. 3 and 4 be directed to demolish the illegal construction done by the Respondent Nos. 5 and 6 on the land of the writ petitioners.

It is submitted that at page 26 and 27 of the writ petition is the copy of application dated 26.06.2019 submitted before the Block Development Officer, Mathurapur-II and the Prodhan of Nagendrapur Gram Panchayat for taking necessary action in the present case but as there was no response by the said authorities the present writ petition was filed on 5.8.2019.

On perusal of the materials on record, it appears that the dispute is prima facie civil in nature but as the panchayat authorities are also required under the Panchayat Act to look into such encroachment, if any, the respondent nos. 3 and 4 are hereby directed to consider the representation dated 26.06.2019 filed by the petitioner within a period of 30 days from this order and on hearing of all stake holders, dispose of the application in accordance with law by passing a reasoned order within 30 days from the date of conclusion of hearing.

Accordingly, WPA 15234 of 2019 is disposed of.

There will be no order as to costs.

All connected applications, if any, stand disposed of.

Interim order, if any, stands vacated.

Urgent Photostat certified copy of this order, if applied for, be given to the learned counsel for the parties on usual undertakings.

(Shampa Dutt (Paul), J.)