

AD-26
Ct No.09
08.08.2023
TN

WPA No. 17530 of 2023

Ramen Karmakar
Vs.
The Registrar General (Administration), Calcutta High
Court and others

Mr. Dyutiman Banerjee
.... for the petitioner

Mr. Victor Chatterjee,
Mr. S. Chakraborty
.... for the respondent no. 1

Learned counsel for the petitioner argues that the petitioner was a party to a civil suit, which came up before this court in a second appeal preferred by one Nanda Rani Mukherjee, who was the adversary of the petitioner in the said civil suit.

It is also contended that the said second appeal bearing SA No. 317 of 2000 was dismissed for default on March 18, 2014 by this court. The appellant took no further steps to restore the said appeal and, as such, the order of dismissal has attained finality.

It is contended that when the petitioner approached the District Judgeship of Murshidabad, by applying under the Right to Information Act, for information regarding the documents relating to the case, it was intimated to the petitioner that the case records have not been received by the Additional

District Judge, First Court at Murshidabad at any time.

Accordingly, the present writ petition has been filed, on the anticipation that the records are lying before this court.

Learned counsel appearing for the respondent no. 1, that is, the Registrar General (Administration), Calcutta High Court, contends that even as per the statement made by the writ petitioner, the second appeal was dismissed for default. As such, there was no occasion for the records of the matter to be called for by this court.

Upon considering the materials annexed to the writ petition, it transpires that on the petitioner's query, the first appellate court, that is, the First Court of Additional District Judge at Murshidabad had intimated that the records have not been received by the said court at any time. Since the records, according to the reply of the Additional District Judge's Court at Murshidabad, had not come even to the first appellate Court at any point of time, there is nothing disclosed in the writ petition to indicate that the records could ever have come before the second appellate court, that is, this court; more so, since the second appeal itself was dismissed for default.

Hence, the present writ petition is baseless. The remedy of the writ petitioner lies in making an appropriate application before the Registrar of the trial court, where the suit was first instituted.

Since such an exercise has already been undertaken by the petitioner, as per the document annexed at page-14 of the writ petition, the petitioner is given liberty to pursue the said application, which is expected to be acted upon early by the trial court.

In the event the petitioner is dissatisfied with the response given to the said application before the Registrar of the District Civil and Sessions Court, Murshidabad, the petitioner will be at liberty to approach the appropriate forum, including a writ petition before this court.

However, insofar as the present writ petition is concerned, the same does not disclose a cause of action.

Accordingly, WPA No. 17530 of 2023 is disposed of in the light of the above observations.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)