

D/L
Item No 09
08.05.2023
KOLE

MAT 1741 of 2022
With
IA No. CAN 1 of 2023
With
IA No. CAN 2 of 2023

Kasem Ali Mondal
-Vs.-
The State of West Bengal & Ors.

Mr. Sandip Kundu,

...for the appellant.

Mr. Naba Kumar Das,
Mr. S. Das,

...for the State.

In Re: CAN 1 of 2023 in MAT 1741 of 2022

This is an application for condonation of delay of 47 days in filing the appeal as noted by the Additional Stamp Reporter.

Causes shown being sufficient, we condone the delay.

CAN No. 1 of 2023 is, thus, allowed.

In Re: MAT 1741 of 2022 with CAN 2 of 2023

Affidavit of service filed in court today be kept with the records.

It appears from the service report that the envelope that was sought to be served on the private respondent has been returned with the postal endorsement 'insufficient address'. However, in view of the nature of the order that we propose to pass, we do not wish to defer the hearing of this matter.

By the order and judgment dated June 14, 2022, the appellant's writ petition was disposed of with the observation that from the report forwarded by the Pradhan

to the Block Development Officer, it appears that there are certain disputed questions of fact involved in the writ petition. Such disputes cannot and ought not to be decided by the Writ Court. The learned Single Judge granted leave to the appellant/writ petitioner to approach the appropriate forum, in accordance with law. Being aggrieved, the writ petitioner is before us by way of this appeal.

The short grievance of the appellant is that the private respondent has used the exterior wall of his house as a support to make unauthorized construction. Learned Advocate for the appellant says that a representation has been made by the appellant to the Gram Pradhan, Chandipur Gram Panchayat, P.O. Pirpur, P.S. Uluberia, District Howrah, ventilating his grievance against the private respondent. Such representation was received at the Pradhan's office on July 2, 2019. However, such representation has still not received the attention of the Pradhan. The appellant only prays that his representation be considered and disposed of.

Mr. Das, Learned Advocate, appearing for the State points out that a report dated August 29, 2019 has been submitted by the Pradhan of the concerned Block Development Officer on the basis of the representation/complaint made by the appellant herein which was received at the office of the Pradhan on July 2, 2019. Hence, it will not be correct to say that the appellant's representation was not considered at all.

However, the appellant is granted liberty to make a fresh comprehensive representation with supporting documents, if any, as regards his grievance against the private respondent. If such a representation is made within four weeks from date, to the Pradhan of the concerned Gram Panchayat, the same shall be disposed of in accordance with law within a period of six weeks from the date of receipt of the representation, after giving an opportunity of hearing to the appellant herein, the private respondent herein and any other concerned party as the Pradhan may deem necessary. If the Pradhan finds merit in the complaint of the appellant, he/she shall take appropriate remedial steps in the matter in accordance with law.

We have not gone into the merits of the appellant's complaint. If any representation is made by the appellant within the time period prescribed above, the Pradhan shall decide the same independently without being influenced by any observation in the order.

Since we have not called for affidavits, the allegations made in the stay application are deemed not to be admitted by the respondents.

The order under appeal stands modified to the aforesaid extent.

The appeal and the connected application are, accordingly, disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Apurba Sinha Ray, J.) (Arijit Banerjee, J.)