

20.01.2023
Item no.7, 8
Court No.6.
AB

**M.A.T. 1496 of 2019
IA CAN 1 of 2020
(Old CAN 369 of 2020)
IA CAN 2 of 2020
(Old CAN 377 of 2020)**

With

**M.A.T. 1752 of 2019
IA CAN 1 of 2020
(Old CAN 372 of 2020)**

**Jyoti Bikash Dey Sikdar
Vs
The State of West Bengal & Ors.**

Mr. Kishore Mukherjeefor the Appellant.

Mr. Ayan Banerjeefor the State in
MAT 1496 of 2019.

These two appeals arise out of same set of facts and hence have been taken up together for hearing and disposal.

In re : CAN 369 of 2020

This is an application for condonation of delay of 207 days in filing the appeal. Causes shown being sufficient, the delay is condoned.

CAN 369 of 2020 is, accordingly, disposed of.

In re : CAN 372 of 2020

This is an application for condonation of delay of 113 days in filing the appeal. Causes shown being sufficient, the delay is condoned.

CAN 372 of 2020 is, accordingly, disposed of.

In re : MAT 1496 of 2019, CAN 377 of 2020,
MAT 1752 of 2019

MAT 1496 of 2019 is an appeal against a judgment and order dated February 4, 2019, whereby the appellant's writ petition being W. P. No.21995 (W) of 2012 was disposed of with the following direction:

“However, the petitioner is entitled to get the patta in respect of E.P. Plot no.85 and E. P. Plot no. 85/1 after observing due required formalities as indicated in the order dated June 15, 2012.

The petitioner is required to pay the value of the portion of the plot no. S. P. 249/2 which is under his possession in excess of quantum of the land under his possession in plot No. E.P. 85/1 at market rate, as mentioned in the order dated June 15, 2012 and also upon compliance of all formalities thereof to get patta in respect of the said portion of the said plot No. S.P. 249/2.”

A review application filed against the said order being RVW 107 of 2019 was dismissed by the learned Single Judge by a judgment and order dated July 1, 2019, which is the subject matter of challenge in MAT 1752 of 2019.

Learned Advocate for the appellant/writ petitioner says that his client is, in principle, not aggrieved by the orders impugned. It is only that ‘amicably settlement partition plan’ cannot be produced by the appellant. On the basis of spot enquiry, it should be ascertained as to which portion

of the land in question is in possession of the appellant and, accordingly, patta should be granted.

Learned Advocate for the State says that there may be other persons, who are interested in the land in question. The appellant should approach the Competent Authority with a comprehensive representation and authenticated map showing which portion he is in possession of. The Competent Authority may cause further spot enquiries to be made to ascertain the extent of possession of the appellant. After such exercise, patta may be granted in his favour, if necessary, after hearing other co-sharers.

We, accordingly, grant liberty to the appellant to make a comprehensive representation before the Principal Secretary, Refugee, Relief & Rehabilitation Department, Government of West Bengal, with the prayer that the appellant has made before us. The Principal Secretary or a competent person authorized by him shall consider such representation and take necessary steps in the matter regarding whether or not patta can be executed in favour of the appellant as per his claim. If necessary, further spot enquiries may be made by the person considering the representation of the appellant and all parties, who may be interested in the land in question, should be granted an opportunity of hearing before any final step is taken. The representation shall be made within a fortnight from

date. Such representation, if made within the time period indicated, shall be disposed of by a reasoned order within three months from the date of receipt of the representation, after giving an opportunity of hearing to all concerned parties and in accordance with law and the applicable Rules and Regulations, if any.

We have not gone into the merits of the appellant's claim. The Authority concerned shall take an informed decision in accordance with law.

To the aforesaid extent, the order of the learned Single Judge stands modified.

MAT 1496 of 2019, CAN 377 of 2020 and MAT 1752 of 2019 stand, accordingly, disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied expeditiously after compliance with all the necessary formalities.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)