

01.12.2023.
Court No.13
Item No. 8
ap

R.V.W. No. 276 of 2023
With
I.A. No. CAN 1 of 2023
And
I.A. No. CAN 2 of 2023
In
W.P.A. No. 4741 of 2023

Molla Islam @ Nurul Islam Molla & Ors.
Versus
Kazi Golam Kader & Ors.

Mr. Samim Ahammed,
Ms. Saloni Bhattacharya,
Ms. Gulsanwara Pervin,
Mr. Arka Ranjan Bhattacharya.

...For the applicants.

Mr. Haradhan Banerjee,
Mr. Amitava Pain,
Mr. Subhrangshu Datta,
Mr. Partha Pratim Mukhopadhyay.

...For the opposite parties.

Mrs. Somali Mukhopadhyay.

...For the respondent no.4.

Mr. K. J. Yusuf,
Mr. Parikshit Goswami.

....For the State.

Re: CAN 1 of 2023 (Condonation)

1. This is an application filed under Section 5 of the Limitation Act, 1963 for condonation of delay of about 216 days in filing the review application.
2. Having heard the learned Advocate appearing on behalf of the respective parties, as also considering the statements made in the said application and that the applicants are the third parties to the writ petition, this Court is satisfied with the grounds indicated

therein, sufficiently explaining delay of 216 days in preferring the review application.

3. The application for condonation of delay being CAN 1 of 2023 is, thus, allowed and disposed of.

4. There will, however, be no order as to costs.

Re: R.V.W. No. 276 of 2023

1. Review is sought of the order dated 27th March, 2023 passed in W.P.A. No. 4741 of 2023 by the applicants, who were not the parties to either the writ petition or Title Suit No. 1489 of 2022, which was the subject matter of the said writ petition.

2. Mr. Ahammed, the learned Counsel appearing on behalf of the review applicants would argue that his clients are the defendants in an earlier suit (T.S. 657 of 2022) before the same Court i.e. the learned Civil Judge (Junior Division) 7th Court, Howrah in which there was an order of status quo passed, both the suits are in respect of same immovable property i.e. cultivation land.

3. The learned Counsel for the respondents submits that review applicants have applied in the Court below in Title Suit No. 1489 of 2022 for addition of party and for vacating the interim order.

4. Mr. Ahammed, Counsel for the review applicants submits that he has no instructions in this regard.

5. In view of the above, R.V.W. No. 276 of 2023 is disposed of granting liberty to the review applicants to apply in the Court below, if not already applied, for

appropriate orders of modification, vacating or otherwise, of any interim order passed in Title Suit No. 1489 of 2022. The directions in the order dated 27th March, 2023 (supra) of this Court, shall apply and be effected subject to the result of any such application.

6. It is ordered that Title Suit No. 657 of 2022 shall be heard analogously with Title Suit No. 1489 of 2022.

7. It is made clear that this Court has not entered into the merits of the rival contentions of the parties in respect of the aforesaid two suits.

8. Since the respondents have not been called upon to use any affidavit, none of the allegations contained in the review application and the application for stay being CAN 2 of 2023 shall be deemed to have been admitted by them.

9. In view of the disposal of the review application, the connected application being CAN 2 of 2023 shall also stand disposed of.

10. There will be no order as to costs.

11. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)