

23.08.2023

Item No. 10

Ct. No.1

PG/AGM

M.A.T. 2070 of 2022

With

IA No. CAN 1 of 2023

With

IA No. CAN 2 of 2023

Mr. Ram Prasad Das

Vs.

State of West Bengal & Ors.

Ms. Debjani Roy.....for the appellant

Mr. Dhilan Sengupta

Mr. Ayan Chakraborty

Ms. Sohini Mukherjee....for the respondents 4 & 5

In Re. : IA No. CAN 1 of 2023

1. We have heard Ms. Debjani Roy, learned advocate appearing for the appellant and Mr. Dhilan Sengupta, learned advocate appearing for the respondent nos. 4 and 5.
2. There is delay of 55 days in filing the appeal. We have perused the affidavit filed in support of the petition and we find that sufficient cause has been shown for not being able to prefer the appeal within the period of limitation.
3. I.A. No.CAN 1 of 2023 is allowed and the delay in filing the appeal is condoned.

In Re. : M.A.T. 2070 of 2022

4. This intra-Court appeal filed by the private respondent in W.P.A. 22210 of 2022 is aggrieved by the order passed by the learned writ Court, by which certain directions were given to enable the 4th respondent/committee to conduct Durga Puja in land, which is the subject matter of a civil dispute in T.S. No. 19 of 2015 in which the appellant is the plaintiff.
5. The matter is now pending before the Court of learned Civil Judge, Senior Division at Bolpur, Birbhum.
6. After elaborately hearing the learned advocates for the parties, we are of the view that when there is dispute regarding title to a property, it would not be appropriate for a writ Court to intervene and to grant permission for conducting a puja that too in favour of a committee, which was the writ petitioner, which, according to the appellant is an unregistered body.
7. We find from the amended plaint in T.S. No. 19 of 2015, the committee represented by its Secretary is the 1st defendant. Apart from that, the State is also a pro-defendant no. 17 in the civil suit. Therefore, if the writ petitioner/committee seeks any permission to conduct puja for the ensuing year or for the subsequent years, it is but appropriate for them to approach the civil Court in

the pending litigation and file an application seeking for appropriate relief, which the civil Court will consider after taking note of all the facts and circumstances of the case.

8. Therefore, we are of the view that a direction cannot be issued in a writ petition considering the facts and circumstances of the case. Accordingly, the appeal is allowed and the order passed in the writ petition is set aside, however, leaving it open to the 4th respondent/committee to approach the civil Court by way of an appropriate interlocutory application. If such an application is filed at the instance of the 4th respondent/committee, the civil Court shall give some preference to such application since the Durga Puja festival is to commence from the last week of October, 2023.
9. It is made clear that this Court has not gone into the merits of the matter and it will be well open to the civil Court to decide all issues.
10. No costs.
11. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)