

16.

September 25, 2023.

GSD

**Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side**

CRR 115 of 2023

In the matter of: Sagarika Tiwari @ Tribedi @ Roy & anr.

.... Petitioners

Ms. Rima Sarkar

Ms. S. Sethia

... for the petitioners

The present revisional application has been preferred challenging the proceedings being Misc. Petition No. 392 of 2022 under Sections 12 and 23 of the PWDV Act which is pending before the Id. JM, 1st Court, Jalpaiguri.

The petitioner before this court happens to be Sagarika Tiwari and Malabika Sarkar. Both are married sisters - in-laws, who are staying at separate locations. According to Id. Advocate they have no interference with the aggrieved parties being the opposite party no.2 in the present revisional application.

Without elaborating on the issue regarding the merits of the case, I am of the opinion that the present revisional application was preferred challenging the continuance of the proceedings. So far as the sisters-in-law/present petitioners are concerned, the jurisdiction of the Ld. District and Sessions

Judge, should have been first invoked, when process/notice was issued for appearance of the petitioners before the Ld. JM.

The present revisional application has been pending for a considerable period of time.

Having regard to the fact that the scrutiny of the Appellate Court which is under Section 29 of the PWDV Act, 2005, was not exhausted prior to approaching this Court, I direct the petitioners to approach the Appellate Court and exhaust the statutory remedies under Section 29 of the PWDV Act.

In regard to the delay in preferring the appeal, in that case, if an application is filed under Section 5 of the Limitation Act, the Id. District and Sessions Judge, will take into account the period of pendency of the present revisional application before this Court and take a lenient view in condoning the delay while preferring the application under Section 29 of the PWDV Act. So far as the issues which have been canvassed in the present revisional application, the same issues with additional issues may be taken up in the application under Section 29 of the PWDV Act before the Id. Dist. & Sessions Judge.

With the aforesaid observations, CRR 115 of 2023 is disposed of.

Pending application, if any, is also disposed of.

Department is directed to return the certified copy to the advocate-on-record provided the same is replaced by a Photostat copy.

Parties shall act on the server copy of this order, duly collected from the official website of the Hon'ble High Court, Calcutta.

(Tirthankar Ghosh, J.)