

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Joymalya Bagchi

And

The Hon'ble Justice Apurba Sinha Ray

***M.A.T. 206 of 2024
(CAN 1 of 2024)***

***Jiten Sarkar & Ors.
-Vs-
The State of West Bengal & Ors.***

For the Appellants : Mr. Debasis Sur, Adv.,
Mr. Hare Krishna Halder, Adv.,
Mr. Angshuman Patra, Adv.

For the State : Mr. Jayanta Samanta Jr. Govt .Adv.,
Mr. Kushal Biswas, Adv.

Heard on : 12.08.2024

Judgment on : 12.08.2024

Joymalya Bagchi, J. :-

1. Appellants made a representation on 14.06.2016 alleging that a death certificate was issued by the Gram Panchayat concerned showing that the date of death of one Nandarani Sarkar was 27.04.1997 though she died on 10.2.1996. The said death

certificate had been produced in a civil suit being T. S. No.89 of 1996 pending by and between the parties in June, 2015. Noting that the certificate was incorrect, within a year appellants approached the Panchayat authority for cancellation of the said death certificate. No steps being taken by the Panchayat authority, appellants approached this Court.

2. Hon'ble Single Judge dismissed the writ petition on the ground of delay and laches holding that Nandarani Sarkar had died on 10.02.1996 but the appellants had approached for cancellation of death certificate after a lapse of two decades. In doing so Hon'ble Single Judge failed to appreciate the cause of action arose upon the issuance of the impugned death certificate on 13.04.2015 and on the date of death of Nandarani Sarkar. Within one year of the presentation of the said death certificate in the civil suit, appellants promptly prayed for its cancellation.
3. Under such circumstances, it was incorrect on the part of the Hon'ble Single Judge to dismiss the writ petition on the ground of delay and laches.
4. In spite of repeated notices, nobody appears on behalf of private respondent No.7.
5. Accordingly, we set aside the order passed by the Hon'ble Single Judge and direct the respondent No.2 to consider the representation of the appellants and pass reasoned order thereon.

within eight weeks from the date of communication of this order after giving an opportunity of hearing to the appellants and the private respondent No.7 herein. Reasoned order so passed shall be communicated to the parties within one week thereof.

6. With these directions, appeal and the connected application are disposed of.
7. There shall be no order as to costs.
8. Photostat certified copy of this judgment, if applied for, be given to the parties on compliance of all formalities.

I agree.

(Apurba Sinha Ray, J.)

(Joymalya Bagchi, J.)

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