

4.
05-03-2024
(Ct. no.06)
debajyoti

**IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
APPELLATE SIDE**

**MAT 329 of 2024
+
IA NO:CAN/1/2024
+
CAN/2/2024**

**Balaram Dutta @ Prosanta Dutta
Vs.
The State of West Bengal & Ors.**

Mr. Asok Chattopadhyay
... For the Appellant.

Mr. K. J. Yusuf,
Ms. Rupsha Chakraborty
... For the State.

Mr. Tapas Kumar Ghosh,
Mr. Tanmoy Chowdhury
... For Respondent Nos.2 & 3.

Mr. Anjan Bhattacharya,
Ms. Anita Shaw,
Mr. Subha Pathak
... For Respondent No.5.

Re : CAN 1 of 2024

This is an application for condonation of delay of 120 days, as per report of the Stamp Reporter, in filing the appeal. Causes shown being sufficient, the delay is condoned.

The application being CAN 1 of 2024 is, thus, allowed.

Re : MAT/329/24 & CAN/2/24

By consent of the parties, the appeal and the connected application are taken up together for hearing.

A judgment and order dated September 25, 2023, whereby the writ petition of the respondent no.5 herein being WPA 18431 of 2023, was disposed of by a learned Judge of this Court, is the subject matter of challenge in this appeal filed by the respondent no.9 in the writ petition.

The writ petitioner approached the learned Single Judge for implementation of an order of demolition issued by the Hooghly-Chinsurah Municipality in respect of an unauthorized construction. The order was passed after issuing notices of hearing to the appellant herein. The demolition order was passed in 2019 and was duly communicated to the appellant.

Since the order of demolition was not being executed, the present writ petition was filed by the private respondent in this appeal. By the impugned order, the learned Judge directed the Municipality to take prompt necessary steps for implementation of its own order.

Being aggrieved, the private respondent no.9 in the writ petition has come up by way of this appeal.

Learned advocate for the appellant says that gross suppression of material facts was made by the writ petitioner before the learned Single Judge.

We see from the order under appeal that there was no representation on behalf of the present appellant. Learned advocate for the appellant tells us that the appellant had engaged a learned lawyer, who failed to appear and protect the interest of the

appellant on the day when the matter was disposed of.

The fact remains that there was no representation on behalf of the appellant before the learned Single Judge. We are not inclined to entertain this appeal at the instance of a person who did not ensure his representation before the learned Single Judge. Without going into the merits of the matter, we dismiss the appeal and the connected application. This will not prevent the appellant from approaching the learned Single Judge with an appropriate application, if he is entitled to do so in law.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties on compliance of all necessary formalities.

(M. V. Muralidaran, J.) (Arijit Banerjee, J.)