

20.03.2024
Item Nos.1-2
gd/ssd

MAT/695/2022
IA NO: CAN/1/2022, CAN/2/2022
NIRANJAN BHAR AND ANR.
VS
WEST BENGAL STATE ELECTRICITY
DISTRIBUTION COMPANY LIMITED AND ORS.
with
MAT/696/2022
IA NO: CAN/1/2022, CAN/2/2022
KINGSHUK DAS
VS
WEST BENGAL STATE ELECTRICITY
DISTRIBUTION COMPANY LIMITED AND ORS.

Mr. Panchanan Hajra
..for the Appellants.

Mr. Amitabh Shukla
..for WBSEDCL.

Mr. Sumit Kumar Panja,
Mr. Sumit Ray
..for WBSETCL.

Re: CAN 2 of 2022 in Both Matters

1. CAN 2 of 2022 in MAT 695 of 2022 and CAN 2 of 2022 in MAT 696 of 2022 have been filed by the appellants seeking condonation of delay of 33 days in filing these appeals.

2. Learned counsel for the appellants has referred to the explanation which has been furnished in the application and also has made submission in respect of the explanation for the delay.

3. We find that the delay in filing these appeals has been sufficiently explained and the

appellants were prevented from filing the appeal within time on account of bona fide reason.

4. Hence, CAN 2 of 2022 in MAT 695 of 2022 and CAN 2 of 2022 in MAT 696 of 2022 are, accordingly, allowed. The delay in filing the appeals is condoned.

Re: MAT 695 of 2022 and MAT 696 of 2022

5. These intra court appeals by the appellants are directed against the order dated 16.02.2022 disposing of the writ petitions granting liberty to the appellants to approach the District Magistrate for claim for compensation since the respondent/Transmission Company has drawn an overhead high tension line over the appellants' property.

6. The appellants would submit that that the alignment of the line had been diverted without drawing the line in a straight line. Consequently, the entire property owned by the appellants which is said to be the only property of the appellants has become useless and they cannot use the property for putting up the construction.

7. The learned Single Bench was of the view that the prayer sought for by the appellants with regard to the drawal of the transmission line has become infructuous and liberty was granted to approach the District Magistrate only for the purpose of claiming compensation.

8. To be noted that the first of the representations/objections given by the appellants was on 22nd September, 2020 followed by a lawyer's notice dated 21st September, 2020 which was specifically addressed to the Chairman of the Transmission Company.

9. According to the appellants, on the said date the line was not drawn and steps were being taken to draw the line and since the objection was not considered, the appellants had filed the writ petitions praying for a direction to stop and not to erect the overhead high tension line over the appellants' property and to consider the representation made by them.

10. Thus, on the date when the writ petitions were filed it appears that the high tension line was not drawn, therefore, we are of the view that the objection raised by the appellants for drawal of the line over and above their property has not become infructuous and such issue can be adjudicated by the District Magistrate despite the fact that during the pendency of the writ petitions the high tension line had been drawn.

11. Therefore, we dispose of these appeals by directing the appellants to submit a fresh representation along with the copy of this order as well as copies of the earlier representation and the rough sketch prepared by the appellants which has been annexed in page 16 of the stay petition and if such

representation is submitted to the District Magistrate, the same shall be enquired into after notice to the Transmission Company as well as the appellants and after affording an opportunity of hearing to the authorized representative of the appellants.

12. In the said representation it will be well open to the appellants to also make an alternate prayer for claiming compensation which will without prejudice to the appellants' right to contest the drawal of the line over and above their property.

13. The District Magistrate shall pass final orders after concluding the enquiry within a period of six weeks from the date on which the representation is submitted.

14. The learned advocate for the respondent/Transmission Company submitted that even in the year 2017 notice was issued to all concerned, all these facts shall be placed before the District Magistrate when the enquiry is being conducted.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)