

08.10.2024
Item No.05
Court No.11
Avijit Mitra

MAT 844 of 2024
with
IA No.CAN 1 of 2024
with
IA No.CAN 2 of 2024
with
IA No.CAN 3 of 2024

Tajel Ali
-versus-
Md. Moslem Ali & ors.

Mr. Tanmoy chattopadhyay
...for the applicant/appellant
Mr. Chandi Charan De, Ld. A.G.P.,
Mr. Anirban Sarkar
....for the State respondents
Mr. Tirthankar Dhali,
Mr. Sayantan Adhya,
Mr. P. Choudhury,
Mr. N.H. Choudhury
....for the respondent no.1

An application being CAN 1 of 2024 has been preferred by the applicant seeking leave to prefer an appeal against an order dated 5th January, 2022 passed in a writ petition being WPA 18218 of 2021, along with an application for condonation of delay being CAN 2 of 2024.

Mr. Chattopadhyay, learned advocate appearing for the applicant submits that he was not impleaded in the writ petition being WPA 18218 of 2021 and the order dated 5th January, 2022 was obtained behind his back. The applicant did not get any opportunity to bring to the notice of the Court the relevant facts involved in the dispute.

In course of hearing, Mr. De, learned Additional Government Pleader appearing for the State respondents submits that pursuant to the order dated 5th January, 2022 passed in the writ petition being WPA 18218 of 2021, an order was passed by the competent authority under the West Bengal Highways Act, 1964 on 18th May, 2022. A statutory appeal preferred thereafter was disposed of by an order dated 13th October, 2023. Aggrieved thereby, persons similarly situated with the applicant in CAN 1 of 2024 herein preferred a writ petition being WPA 1897 of 2024. The said writ petition was disposed of by an order dated 11th March, 2024 setting aside the order dated 13th October, 2023 passed by the District Magistrate, Malda and directing him to revisit the issue and to pass a reasoned and speaking order. Pursuant to such direction, the District Magistrate, Malda has fixed a date of hearing on 24th October, 2024. Let the documents, as produced, be kept on record.

Mr. Dhali, learned advocate enters appearance on behalf of the respondent no.1 and denies the contention of the applicant.

Heard the learned advocates appearing for the respective parties and considered the materials on record.

As the order dated 5th January, 2022 passed in the writ petition being WPA 18218 of 2021 has already been acted upon, we are not inclined to grant leave to the applicant to prefer the appeal. Accordingly, the

application for leave to appeal being CAN 1 of 2024 along with the application for condonation of delay being CAN 2 of 2024 are dismissed. Consequently, the appeal being MAT 844 of 2024 fails.

Needless to observe, the applicant herein would be at liberty to take appropriate steps in the pending appeal before the District Magistrate, Malda.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties.

(Partha Sarathi Chatterjee,J.) (Tapabrata Chakraborty, J.)