

28.02.2024
SI No.10
Court No.8
(gc)

MAT 922 of 2016
CAN 1 of 2016 (Old No: CAN 5360 of 2016)
CAN 2 of 2016 (Old No: CAN 6683 of 2016)

Sk. Jiad Ali
Vs.
The State of West Bengal & Ors.

Mr. S.P. Pahari,
Mr. A. Pradhan,
Mrs. A. Pradhan

...for the Appellant.

Mr. Debabrata Saha Roy,
Mr. Pingal Bhattacharyya,
Mr. Neil Basu,
Mr. Rajdeep Sinha,
Mr. Sankha Biswas

...for the Respondent No.1.

Mr. Sirsanya Bandopadhyay,Ld. J.S.C.

Mr. Ritesh Kr. Ganguly

...for the State Respondents.

1. The application for addition of party in the writ petition was dismissed by the learned Single Judge on 20th July, 2015 by a detailed order in CAN 2989 of 2015 (WP 4649(W) of 2015). The appeal was preferred being MAT 1924 of 2016 but the same was not pursued. In the meantime, the writ petition was heard and disposed of on merits. On 11th May, 2023, MAT 1924 of 2016 was withdrawn on the ground that the petitioners have preferred an appeal against the final order being MAT 922 of 2016. A Coordinate Bench on 11th May,

2023 has recorded that the present applicants are not willing to proceed with the application by which their application for addition of party was rejected on 20th July, 2015.

2. In view of the fact that they have preferred an appeal against the final order with an application for leave to prefer an appeal, we are of the view that the present applicants are not entitled to pray for leave to prefer an appeal as the order dated 20th July, 2015 has attained finality. Once they were not found to be necessary party for adjudication of the writ petition on merits, we feel that they have no right now to challenge the final order passed by the learned Single Judge while disposing of the writ petition.
3. The finding of the learned Single Judge that having regard to the nature of the complaints against the action of the Sub-Divisional Controller (Food and Supplies), Haldia accepting the resignation of the writ petitioners from its M.R. Dealership on the basis of the opinion expressed by the District Controller (Food and Supplies) is of a nature which does not warrant that the proposed added party applicants can be

considered to be the necessary parties has attained finality. Moreover, the appellants have withdrawn the appeal being MAT 1924 of 2016 without reserving their right to raise such issues in this appeal.

4. Under such circumstances, we are not inclined to allow the application for leave to prefer an appeal.
5. The application being CAN 1 of 2016 (Old No: CAN 5360 of 2016), accordingly, stands dismissed.
6. In view of dismissal of the application for leave to prefer an appeal, the appeal and the connected application also stand dismissed.
7. However, there shall be no order as to costs.
8. Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Uday Kumar, J.)

(Soumen Sen, J.)