

03.09.2024
Sl. No.26
akd

**M. A. T. 1058 of 2024
(CAN 1 of 2024)
(CAN 2 of 2024)**

[Bilwanath Hazra -Vs- The State of West Bengal & Ors.]

Mr. Partha Pratim Roy
Mr. Sarbananda Sanyal
... .. for the appellant

Mr. K. J. Yusuf .. Id. A.G.P.
Mr. Parikshit Goswami
... .. for the State

Re : C. A. N. 1 of 2024

1. The application has been filed under Section 5 of the Limitation Act for condonation of delay.
2. Having considered the averments made in the application for condonation of delay and being satisfied with the explanation given, we are inclined to condone the delay in preferring the appeal.
3. The application being CAN 1 of 2024 is allowed.

Re : M. A. T. 1058 of 2024

4. Appellant raises an issue that the constructions on the bank of the pond were unauthorisedly made. No permission to construct had been granted by the local authority.
5. After hearing the parties, Hon'ble Single Judge gave liberty to the appellant to approach the Fisheries Officer to consider his prayer and ascertain whether pisciculture is being hampered on account of filling up of water body. It has also been directed if the water body is found to be illegally filled up, necessary steps shall be taken.

6. From the report submitted by the Block Development Officer, Purbasthali-1 block it appears constructions were made 28 years ago and it is contended permission was possibly given by the Pradhan of the Gram Panchayat.
7. In view of the fact that constructions were made three decades ago and presumably with permission of Gram Panchayat, further enquiry was not called for. However, as the constructions were on the bank of the pond, matter had been rightly relegated to the Fisheries Officer for necessary enquiry.
8. We do not find any illegality in the order impugned.
9. Accordingly, appeal is dismissed.
10. In view of dismissal of the appeal, connected application being CAN 2 of 2024 is also disposed of.
11. Interim order, if any, shall stand vacated.
12. There shall be no order as to costs.
13. Let photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)