

06.12.2024

Item no. 4

Dd

MAT/1081/2024
WITH
IA NO: CAN/1/2024, CAN/2/2024
THE SABHADHIPATI, SOUTH 24-PARGANAS
ZILLA PARISHAD, ALIPORE, AND ORS.
VS
IMRAN ENTERPRISE AND ORS.

Mr. Tapash Kr. Mondal, Advocate
... ... For the Appellants

Mr. Sarajit Sen,
Mr. Tapas Sinha Roy, Advocates
... ...For the Respondent No. 1

Mr. Arindam Chattopadhyay,
Ms. Lipika Chatterjee, advocates
.. ...For the State

1. CAN 2 of 2024 is an application for condonation of delay.
2. Department reports a delay of 182 days.
3. Supplementary affidavit filed in Court be taken on record.
4. Appellants seek condonation of delay on the ground that the appeal was filed after obtaining leave to file the same without certified copy and that the appeal was filed without a delay of 10 days. Thereafter, certified copy although obtained was not filed in the department inadvertently.
5. For the ends of justice, causes shown in the application of delay are accepted as sufficient. Delay of 182 days is condoned. CAN 2 of 2024 is **allowed**.

6. CAN 1 of 2024 is an application seeking stay of the impugned judgment and order dated April 12, 2024 passed in WPA 22289 of 2018. By consent of the parties, the appeal is taken up for hearing. Court is informed that all papers used before the learned single Judge are available on record.
7. Appeal is at the behest of the Zilla Parishad.
8. Writ petitioners filed a writ petition seeking payment of final bill along with interest. Such writ petition was disposed of directing the appellants to pay interest at the rate of 9% per annum on the final bill amount calculated from the date of preparation of the final bill till the date of actual payment. Learned single Judge also directed interest to be paid within 12 weeks from the date of receipt of the copy of the order. Security deposit amount was directed to be refunded.
9. Learned advocate appearing for the appellants submits that tender condition provided that the bills of the successful tenderer would be paid as and when funds are available to the Zilla Parishad. He submits that the final bill of the writ petitioners was paid immediately on availability of the fund. Therefore, there is no question of imposition of interest.
10. State and the writ petitioners are represented.
11. The records demonstrate that pursuant to tender floated by the Zilla Parishad, writ petitioners participated therein and became the successful tenderer. Writ petitioners

executed work under the subject tender. Writ petitioners submitted bills with the Zilla Parishad from time to time. Final bill was also submitted. Since the writ petitioners were not receiving payment in respect of the final bill, writ petitioner approached the writ Court for payment of the final bill along with interest thereon.

12. During the pendency of the writ petition, final bill was paid to the writ petitioners.
13. Only issue remained to be decided in the writ petition was the quantum of interest, if any, that the writ petitioners was entitled to.
14. Learned Judge decided such issue by holding that the nature of transaction was commercial and that, the writ petitioners were entitled to interest from the date of submission of the final bill till the date of actual payment.
15. There is delay in payment of the final bill. Rate of interest imposed is reasonable considering the nature of the transaction between the writ petitioners and the Zilla Parishad. The transaction obviously is commercial. Nationalized banks charge interest not less than the rate of interest awarded by the learned single Judge in respect of the loans granted by such nationalized bank.
16. In any event, learned single Judge exercised discretion in quantifying rate of interest. Nothing is placed before us to suggest that the rate of interest awarded by the learned single Judge is perverse.

17. In such circumstances, we are not minded to interfere with the discretion exercised by the learned single Judge.
18. In our view, interest of justice would be subserved by extending the time to comply with the judgment and order dated April 12, 2024 for a period of six weeks from date.
19. MAT/1081/2024 along with CAN 1 of 2024 is **disposed of** without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)