

31.07.2024
Item No.7
RP/AN
Ct. No.1

MAT 1147 of 2024
With
IA No.CAN 1 of 2024
CAN 2 Of 2024

Padma Das (Senior Citizen)
Vs.
The Consumer Affairs Officer, Consumer Affairs
Department & Ors.

Mr. Sarathi Dasgupta
Mr. Anubhav Khastagir
Mr. Avishek Choudhury
.....for Appellants

- 1.** We have perused the affidavits filed in support of the application for condonation of delay. We are satisfied that sufficient causes have been shown for not filing the appeal in time. Therefore, the delay is condoned and CAN 1 of 2024 is allowed.
- 2.** This intra-Court appeal is directed against the order dated 19.03.2024 passed in WPA 2870 of 2023. The said writ petition was filed by the appellant praying for issuance of writ of mandamus upon the respondent insurance company to release the death claim of the deceased daughter of the appellant/writ petitioner in connection with four insurance policies. The learned Single Bench after going through the reasons assigned by the respondent insurance company for not accepting the death claim was of the opinion that there is no unreasonableness in the reasons assigned by the insurance company for negating the claim made by the appellant/writ petitioner. Assailing the correctness of the said order, the appellant has preferred the appeal.
- 3.** During the course of hearing the Court has posed a question to the learned advocate for the appellant as to

the maintainability of the writ petition as against the private insurance company and as to whether the Court can adjudicate into the disputed questions on facts.

4. The learned advocate appearing for the appellant realizing that disputed questions on facts are involved in this matter and the same cannot be adjudicated in a writ petition based on affidavits seeks permission to withdraw the writ petition, being WPA 2870 of 2023 so as to enable the appellant/writ petitioner to approach the appropriate forum for necessary relief.
5. Considering such submission of the learned advocate for the appellant, we permit the appellant/writ petitioner to withdraw WPA 2870 of 2023 and the same is accordingly dismissed as withdrawn with liberty to the appellant/writ petitioner to approach the appropriate forum for necessary relief. In the event, the appellant/writ petitioner approaches the appropriate forum, then the said forum shall adjudicate the matter uninfluenced by any observations made in the order dated 19th March, 2024 passed in WPA 2870 of 2023.
6. With the above observation, the appeal and the connected application stand disposed of.

(T.S SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)