

01.02.2024
Ct. 654
D/L 73
ab

WPA 17878 of 2015
With
CAN 1 of 2023
CAN 2 of 2024

Nijamuddin Mondal
-Vs-
State of West Bengal & Ors.

Mr. Tapas Kumar Adhikari,
Mr. Abhijit Ghosh
... for the petitioner/applicant
Mr. Sunil Kumar Gupta,
Mr. Hasibul Islam
... for the respondent no. 7-
Murshidabad Zilla Parishad
Mr. Soumitra Bandyopadhyay,
Mr. Srinath Singha Roy,
Mr. Anirban Sarkar
... for the State

Re: CAN 2 of 2024 (Section 5)

This is an application for condonation of delay in filing the application for restoration of the writ petition.

Mr. Tapas Kumar Adhikari, learned advocate for the petitioner/applicant submits that the writ petition was dismissed for default on 25th October, 2017, however, the petitioner was unaware of such order of dismissal, which has resulted in delay of 2292 days in preferring the restoration application. The land of the petitioner was utilized by the State authorities without acquisition or payment of compensation. Thus, in view of the deprivation caused to the petitioner, the delay in filing application for restoration should be condoned.

Mr. Soumitra Bandyopadhyay, learned advocate for the State-respondents submits that the delay has not been properly explained, hence the application should be dismissed.

Mr. Sunil Kumar Gupta, learned advocate for the respondent no. 7-Murshidabad Zilla Parishad opposing such prayer for condonation of delay submits that the reason given in the application is contradictory to one another.

Upon going through the application, it is found that the petitioner contends that he came to learn of such order of dismissal dated 25th October, 2017 only on 13th December, 2023, for which reason, there is delay in filing the application for restoration. Considering the aforesaid aspect and bearing in mind the facts involved, I am inclined to condone such delay. Accordingly, delay of 2292 days in preferring the application for restoration stands condoned.

The application for condonation of delay being **CAN 2 of 2024** stands allowed.

Re: CAN 1 of 2023 (Restoration)

This is an application for restoration of the writ petition by recalling the order of dismissal dated 25th October, 2017.

By order dated 25th October, 2017, the writ petition was dismissed for default.

Mr. Tapas Kumar Adhikari, learned advocate for the petitioner/applicant seeks for restoration of the writ

petition. It is contended in the application that due to illness of the erstwhile learned advocate-on-record Ms. Sima Adhikary, the petitioner remained unrepresented on call, due to which the writ petition was dismissed for default.

The cause shown is sufficient to recall the order of dismissal.

Accordingly, the order dated 25th October, 2017 is hereby recalled. The writ petition along with connected applications, if any, is restored to its original file and number.

The application for restoration being **CAN 1 of 2023** stands allowed.

Re: WPA 17878 of 2015

Learned advocate for the petitioner is directed to serve copy of the writ petition along with its annexures to the learned advocates for the respondent no. 7 as well as State-respondents.

Learned advocates for the respondent no. 7 as well as State-respondents seek to file affidavits-in-opposition to the writ petition.

Let such affidavits-in-opposition be filed by respondent no. 7 and State-respondents within four weeks from date. Reply thereto, if any, be filed within two weeks thereafter.

Let the matter appear after six weeks under the heading "*Hearing (Group-I)*".

(**Bivas Pattanayak, J.**)