

23.09.2024
Item No.45
gd/ssd

MAT/1723/2024
PRITIKANA BASAK
VS
STATE OF WEST BENGAL AND ORS.
IA NO: CAN/1/2024

Ms. Soumi Chatterjee
..for the Appellant.

Mr. Jahar Lal De
..for the State.

1. The petitioner has moved the learned writ court on the ground that she was thrown out of her flat by her daughter-in-law which falls within the jurisdiction of Eco Park Police Station.

2. The learned writ court considered the matter and found that the appellant/writ petitioner never resided in the flat based on a report submitted by the concerned police. The writ petition was disposed of giving liberty to the appellant/writ petitioner to take appropriate statutory proceedings, if so advised. The impugned order was passed on 31.03.2022 and subsequently a review application was filed which was also dismissed and this appeal has been filed by the delay of 857 days.

3. Considering the age of the appellant and that the appellant had certain medical complications though the delay is inordinate and not properly explained, we exercise discretion and condone the delay in filing the

appeal. So far as the correctness of the impugned order is concerned, we find that the matter is wholly civil in nature and the learned Single Bench was right in disposing of the writ petition with certain observations/directions. After the disposal of the writ petition, the appellant has filed a Title Suit before the Civil Judge (Junior Division-I) at Barasat in Title Suit No.405 of 2023 for recovery of possession of the said flat. Having filed the said suit, the appellant cannot now press for an identical relief in this appeal.

4. Therefore, we are of the view that the appellant should pursue her remedy in the pending civil suit.

5. With the above observation, the appeal stands dismissed.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(BIVAS PATTANAYAK, J.)