

D/L
Item No. 37
07.08.2024
KOLE

**WPA 27320 of 2023
With
IA CAN 1 of 2024
With
IA CAN 2 of 2024**

**Md. Mujibur Rahaman Khan
-Vs.-
The State of West Bengal & Ors.**

Mr. Mani Sankar Chattopadhyay,
...for the petitioner.

Mr. D. Nath Mukherjee,
Mr. J. Mondal,
...for the State.

Mrs. Deblina Lahiri,
Mr. Mrinmoy Chatterjee,
...for the respondent nos. 4 and 5.

In Re: IA CAN 1 of 2024:-

1. This is an application under Section 5 of the Limitation Act for condonatio of delay in filing CAN 2 of 2024.
2. Upon perusing the cause for the delay as stated in the paragraphs 3 to 5, it appears that the petitioner has shown sufficient ground for condonation of delay.
3. Hence, delay is condoned. CAN 1 of 2024 is allowed.

In Re: IA CAN 2 of 2024:-

4. CAN 2 of 2024 is an application for restoration of WPA 27320 which was dismissed for default on 16.05.2023.
5. Having perused the application, this court finds that the petitioner has been able to satisfy the Court that the petitioner was prevented by sufficient cause from

attending the Court when the writ petition was dismissed for default.

6. WPA 27320 of 2023 is restored to its original file and number. The order dated May 16, 2024 is recalled.
7. IA CAN 2 of 2024 is, thus, disposed of.

IN Re: WPA 27320 of 2023:-

8. The petitioner is aggrieved by an order of the District Magistrate passed under Section 14 of the SARFAESI Act. A writ petition, challenging the said order is not maintainable either at the instance of the borrower or heirs of the borrower. It appears that SA 827 of 2022 is pending before the Learned Debts Recovery Tribunal at the instance of the writ petitioner.
9. Under such circumstances, the writ petition stands disposed of by granting liberty to the writ petitioner to approach the Debts Recovery Tribunal, in accordance with law.
10. The writ petition stands disposed of.
11. There will be no order as to costs.
12. Parties to act on the server copy of this order duly downloaded from the website of this Court.

(Shampa Sarkar, J.)