

WPLRT 141 of 2023

**Rinku Chowdhury
vs
State of West Bengal & Ors.**

Mr. Anil Kumar Chattopadhyay.
Mr. Dinesh Pan

..... For the petitioner.

Mr. Prasenjit Burman
Ms. Payal Koley

..... For the respondent no. 4,5 & 6.

Mr. Somnath Gaguli, Ld. AGP
Ms. Priyamvada Singh

..... For the State/respondents.

This writ petition is directed against an order dated 26th September, 2023 passed by the learned Tribunal in an application being M. A. no. 472 of 2023 filed in connection with original application being O. A. 1321 of 2020 whereby the application preferred by the petitioner for restoration of the original application was rejected.

The private respondent approached the BL & LRO concerned by making an application for rectification of the record of rights of the subject plot of land. On receipt of such application, one proceeding was initiated and in connection therewith, a notice was served upon the petitioner treating him to be one of the interested parties.

The petitioner challenged the said notice before the learned Tribunal by preferring the original application. Record reveals that on the date when the original application was called on for hearing, the petitioner could

not appear. Consequently, the original application was dismissed for default.

The petitioner took out an application being MA no. 472 of 2023 praying for recalling the order whereby the original application was dismissed for default and for restoration of the original application to its original file and number but the said application for restoration was dismissed and hence, the petitioner has knocked on the door of this court by preferring the present writ petition.

The learned advocate for the petitioner submits that Mr. Chatterjee, learned advocate of the petitioner became seriously ill and due to his illness he could not appear on the date when the original application was called on for hearing and hence, the petitioner remained unrepresented before the learned Tribunal on that date. He contends that without considering the explanation given towards absence of Mr. Chatterjee in its proper perspective, the learned Tribunal has illegally dismissed the application for restoration.

Mr. Ganguly, learned Additional Government Pleader denies and disputes the submission made on the part of the petitioner.

Heard the learned advocate appearing for the petitioner and considered the materials on record.

It is well settled proposition of law that due to the laches on the part of the learned advocate, a litigant should not be forced to suffer. On perusal of the contents

of the application being MA no. 472 of 2023, it reveals that satisfactory justification was given by the petitioner towards absence of her learned advocate on the date when the original was called on hearing and dismissed for default. Accordingly, the order impugned is set aside. The application being MA no. 472 of 2023 is allowed. The original application being O. A. 1321 of 2020 is restored to its original file and number.

On consent of the petitioner and the private respondent, we decide to apply our mind to the dispute involved in the *lis* as we are of the opinion that no purpose will be served for keeping such *lis* alive for years. Hence, we invite the petitioner and private respondent to argue on merits.

Having regard to the contentions canvassed by the respective parties and having regard to the nature of the disputes brewed up between the parties, we are inclined to dispose of this writ petition as well as the original application giving liberty to the petitioner and the private respondent to place all the documents in support of their respective claims and raise all grievances before the concerned BL & LRO who shall decide the issue by passing a reasoned order after affording the opportunity of hearing to the respective parties and upon considering all the documents which would be placed before him by the respective parties as expeditiously as possible

preferably within a period of eight weeks from the date of communication of this order.

Accordingly, the writ petition being No. WPLRT 141 of 2023, MA no. 472 of 2023 and the Original Application being OA no. 1321 of 2020 are, thus, disposed of.

There shall, however, be no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Partha Sarathi Chatterjee,J.) (Tapabrata Chakraborty,J.)