

08.11.2024
Item No.45
Court No.1.
S. De

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI**

MAT 47 of 2023

CAN 1 of 2023

CAN 2 of 2023

**The Jalpaiguri Municipality & Anr.
Vs.
Palas Paul & Anr.**

Mr. Bikramaditya Ghosh,
Ms. Supriya Singh,
Ms. Swarup Das,
Mr. Ved Rai, ...for the appellants.

Mr. Saptansu Basu, Ld. Sr. Adv.,
Mr. Milindo Paul,
Mr. Nabankur Paul,
Ms. Sutapa Sen Paul,
Ms. Bedasruti Bose,
Mr. Subham Das,
Mr. Bodhisatya Ghosh,
...for the respondent no.1.

Mr. Subir Kumar Saha,
Mr. Momenur Rahman,
...for the State.

In re : CAN 1 of 2023

This is an application for condonation of delay of 51 days as noted by the Additional Stamp Reporter in filing this appeal. Causes shown being sufficient, the delay is condoned.

CAN 1 of 2023 is, accordingly, disposed of treating the same as on day's list.

In re : MAT 47 of 2023 & CAN 2 of 2023

This appeal is directed against a judgment and order dated January 9, 2023, passed by a learned Judge of this Court, whereby WPA 1 of 2023 was

disposed of. The operative portion of the order reads as follows :

“WPA 1 of 2023 is accordingly disposed of with a direction on the respondent no.3 being the Chairman, Jalpaiguri Municipality to disburse the admitted outstanding dues of Rs.25,77,127/- along with interest @ 6% per annum from June, 2018 until the date of payment. The petitioner received the amount from the municipality last in June, 2018. The disbursement, as directed, should be made within a period of ten weeks from today in the same manner as the earlier payments namely through the petitioner’s Bank Account, the details of which are already with the Jalpaiguri Municipality.”

It appears that the respondent/writ petitioner did certain work of installation of C.C.T.V. cameras and associated work for Jalpaiguri Municipality which is the appellant before us. It further appears that the writ petition was filed making a grievance that the Municipality was not releasing the billed amount although there was no dispute regarding the same. The learned Judge allowed the writ petition on the basis of a document wherein, according to the petitioner, the claim of the writ petitioner has been

admitted by the Municipality. Relying on the principle of Order 12 Rule 6 C.P.C., the writ petition was allowed.

Being aggrieved, the Municipality is before us by way of this appeal.

At the outset, we notice from the order impugned that the Municipality did not appear before the learned Single Judge on the day the writ petition was disposed of. We are not inclined to entertain the appeal of a party who chose not to appear before the learned single Judge.

Therefore, this appeal being MAT 47 of 2023 stands dismissed along with the application being CAN 2 of 2023 treating the application as to day's list.

However, if the appellant is entitled in law to approach the learned Single Judge with an appropriate application, it will be at liberty to do so upon notice to the writ petitioner.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance with all the necessary formalities.

(Biswaroop Chowdhury, J.)

(Arijit Banerjee, J.)