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27.02.2025
Ct. No. 11
rrc

WPLRT 29 of 2025
(Sukumar Paul & Ors. Vs. The State of
West Bengal & Ors.)

Mr. Surya Prasad Chattopadhyay
Mr. Arjun Samanta
Ms. Trishtrya Maneherji
.... For the petitioners

Sk. Md. Galib, Sr. Govt. Adv.
Ms. Priyamvada Singh
..... For the State respondents

Mr. Arindam Banerjee, Sr. Adv.
Mr. Saptarshi Dutta
Ms. Srinjita Ghosh
Mr. P. K. Pal
Mr. Debdut Hore
..... For the respondent nos. 3 & 4

Affidavit-of-service, as filed, be kept on record.

This present writ petition has been preferred challenging the justifiability of the three specific orders passed by the learned Tribunal in certain Miscellaneous Applications filed in connection with an Original Application (in short, OA) no. 2083 of 2020, which are as follows:

i) the order dated 27th February, 2024 passed in Miscellaneous Application (in short, MA) 126 of 2024, MA 814 of 2021, MA 145 of 2022, MA 1258 of 2023;

ii) the order dated 27th August, 2024 passed in MA 02 of 2021 and MA 815 of 2021; and

iii) the order date 9th January, 2025 passed by the learned Tribunal in MA 02 of 2021, MA 815 of 2021, MA 509 of 2024.

Mr. Chattopadhyay, learned advocate appearing for the petitioners, submits that the Original Application (OA) was filed challenging certain orders, including the final order passed by the learned Thika Controller, Kolkata, in Miscellaneous Case No. 15 of 2009. During the pendency of the OA, some respondents passed away. However, no steps were taken for their substitution within the period of limitation provided therefor. As a result, the OA has abated with respect to those respondents.

Subsequently, three applications were preferred to bring the legal heirs of those deceased respondents on record upon setting aside the abatement. Those three applications were registered as MA 145 of 2022, MA 718 of 2023 and MA 1258 of 2023 respectively. As these applications were time barred, applications for condonation of delay were also filed along with those applications.

Mr. Chattopadhyay contends that by passing a cryptic order, the delay was condoned, the abatement was set aside, and the legal heirs were substituted in place of the deceased respondents. He submits that the petitioners are aggrieved by this cryptic order. Consequently, the petitioners filed an application, MA 509 of 2024, seeking the recall of the order by which the delay was condoned, the abatement was set aside, and the substitution was made. However, while the recall application was still pending, the learned Tribunal chose to hear the application for condonation of delay in filing the OA (MA 2 of 2021) first.

He argues that since the substitution of a party in the proceeding is in question, the petitioners' application should be decided first, before hearing the application for condonation of

delay filed in connection with the main petition. He submits that an appropriate order should be passed, directing the learned Tribunal to first take up the recall application being MA 509 of 2024, and then proceed to hear the other applications.

Mr. Banerjee, learned senior advocate representing respondent nos. 3 and 4, vehemently opposes the petitioners' contention. He submits that the facts presented in this writ petition are incorrect and that the petitioners have no locus standi to challenge the substitution of other parties in the proceedings. He asserts that the petitioners are attempting to delay the progress of the proceedings by filing such frivolous applications.

Heard the learned advocates. Perused the materials on record.

We have carefully reviewed the cause title of the present writ petition. The petitioners, namely, Sukumar Paul, son of Late Gourbinod Paul, Malati Pal, wife of Nitai Chandra Pal, and Rupjhari Devi, wife of Late Surendra Prasad Singh, have filed this writ petition.

The petitioners are neither connected nor related to the deceased respondents who have been substituted by their respective legal heirs. Furthermore, no authority has been cited to demonstrate how one party to a proceeding can acquire the right to challenge the substitution of other parties who have passed away during the pendency of the proceeding. Thus, we find no material to suggest that the petitioners have the locus standi to challenge the order of the learned Tribunal, by which the delay was condoned, the abatement was set aside, and the prayer for substitution was allowed. At no stage of the

proceedings did the petitioners ever claim that the deceased respondents referred to in the order dated 27.02.2024 were improperly joined, that the right to sue does not survive to their respective legal heirs, or that any of their legal heirs is disqualified from being substituted. The record reveals that 67 (sixty-seven) persons were impleaded as respondents in the OA, and therefore, it is clear that the death of one or two respondents will not result in the termination of the *lis*.

Thus, taking note of these facts, we do not find any justification to direct the learned Tribunal to take up the application for recalling first before deciding the application for condonation of delay in preferring the OA.

With these observations and directions, this writ petition is, thus, disposed of.

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

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

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