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2025
FRIDAY

Court : MB-07
Item : AD-31
Status : DC-DO
ID : 266057
AR : NANDY

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 9819 OF 2020

PRASANTA KUMAR DAS
VS.

THE STATE OF WEST BENGAL & ORS.

MR. ANINDYA SUNDAR DAS, ADVOCATE
MR. SHAUNAK GHOSH, ADVOCATE
MR. SUVO GAYEN, ADVOCATE
MS. PARAMITA MONDAL, ADVOCATE

.....for the Petitioner

MR. PINAKI BHATTACHARYA, ADVOCATE
MR. KAPIL GUHA, ADVOCATE

.....for the State

CAN 2 OF 2025

1. This is an application for condonation of delay in filing CAN 1 of 2025, for recalling the order dated 10.11.2022, by which the writ petition was dismissed for default.
2. Having heard the learned advocate appearing for the petitioner and upon perusal of the materials on record, I am satisfied with the explanation offered for the delay, as sufficient cause existed which prevented the petitioner from filing the application for recall/restoration.
3. Accordingly, the application for condonation of delay being **CAN 2 of 2025** is **allowed**.

CAN 1 of 2025

4. Having heard the learned advocates appearing for the respective parties and upon perusal of the materials on record, I am satisfied with the explanation offered for the absence of the learned advocate for the petitioner on 10.11.2022, when the writ petition was dismissed for default.
5. Accordingly, the application being **CAN 1 of 2025** is **allowed**.
6. The order dated **10.11.2025** is **recalled**.
7. **WPA 9819 of 2020** is **restored** to its original file and number.

WPA 9819 OF 2020

8. Though the matter is listed under the heading "Application", by consent of the parties, the writ petition is taken up for hearing.
9. Citing inaction on the part of the Assistant Engineer in considering the petitioner's representation, which was

- received by the office of the Assistant Engineer on 14.09.2020, the present writ petition has been filed.
10. Mr. Ghosh, learned advocate representing the petitioner, submits that the petitioner is a recorded co-owner in respect of the plot of land bearing No. 102 at Mouza – Paschim Bhaganari, P.S. – Khejuri, District – Purba Medinipur. Mr. Ghosh further submits that though the classification of the said land is 'vaastu', it was erroneously recorded as a 'water-body' in the record of rights; however, the said error was subsequently rectified. On the said land, the petitioner has constructed his residential house after completion of all necessary formalities. However, certain unknown persons have been making unauthorized constructions, thereby creating obstruction to the smooth ingress and egress to the petitioner's residential house.
 11. The said incident was brought to the notice of the concerned Assistant Engineer by a representation dated 14.09.2020, which was duly received. However, despite receipt of the said representation, no effective steps have been taken. He submits that such continued inaction has compelled the petitioner to file the present application.
 12. Mr. Bhattacharya, learned advocate representing the State, submits that if the matter is remanded to the Assistant Engineer with a direction to consider the same and take a decision thereon, the State will not stand in the way.
 13. Having heard the learned advocates for the respective parties and upon perusal of the materials on record, particularly considering the stand taken by the State, respondent no. 2 is directed to consider the representation dated 14.09.2020 after affording an opportunity of hearing to the petitioner and all other interested parties. If, for the purpose of taking an appropriate decision on the representation, it is necessary to conduct a physical verification of the land in question, the Assistant Engineer shall have the liberty to cause such inspection.
 14. The entire exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.
 15. With this order and observation, **WPA 9819 of 2020** is **disposed of**.

(PARTHA SARATHI CHATTERJEE, J.)

