

Item- 7 22-06-2021

W.P.L.R.T. 24 of 2021

sg Ct. 16

Malati Mitra
Versus
The State of West Bengal & Ors.
(Through Video Conference)

Mr. Goutam Chakraborty, Adv.
Mr. Kartik Kumer Ray, Adv.
...for the petitioner

Mr. U.A. Dewan, Adv.
Mr. A. Dewan, Adv.
...for the respondent No. 4

Mr. Partha Pratim Roy, Adv.
Mr. Priyabrata Batabyal, Adv.
...for the respondent nos. 6 & 7

We have heard the learned Counsel for the parties.

This writ petition is arising out of an order dated 11th March, 2021 passed by the learned West Bengal Land Reforms and Tenancy Tribunal by which the application for condonation of delay in approaching the learned West Bengal Land Reforms and Tenancy Tribunal was dismissed.

This matter has a chequered history. The present petitioner has approached the Rent Controller with a prayer for repairing. The prayer was allowed on 28th May, 2015. However on a plea taken by the landlord that due to unavoidable circumstances, the landlord could not be present when the Rent Controller had allowed the prayer for repairing. The Rent Controller stayed the orders passed on 28th May, 2015 and 18th June, 2015.

We feel that on the basis of the facts stated in the petition, the learned Tribunal ought to have condoned the delay for the ends of justice. In an adversarial proceeding when a litigant is dependent on the advice of the advocate, he should not suffer for any wrong advice or delay and laches on the part of the advocate conducting the litigation. We do not find there was any culpable negligence on the part of the petitioner who appears to be 85 years of old to conduct the proceeding.

On the advice of the learned advocate, she filed a writ petition before the Hon'ble High Court. The reasons for delay have been adequately explained in this petition although, it may be sketchy before the learned Tribunal.

We are satisfied with the explanation offered by the writ petitioner for not being able to approach the learned Tribunal within the period of limitation. In fact, before the learned Tribunal, the landlord has taken adjournments on numerous occasions and had delayed the proceeding in not filing the written objection within time. If anyone had suffered by reason of such delay, that is the petitioner.

In such view of the matter, we set aside the order passed by the learned Tribunal by which the learned Tribunal had declined to condone the delay. The proceeding before the learned Tribunal is restored. The pendency of the proceeding before the learned West Bengal Land Reforms and Tenancy Tribunal shall not be a ground for stay of the proceeding before the learned Civil Judge. The petitioner, in the instant case, may also, if advised, file appropriate application before the learned

Civil Judge for repairing in which event, the petitioner shall withdraw the application filed before the learned West Bengal Land Reforms and Tenancy Tribunal.

We make it clear that in the event the petitioner wishes to pursue the remedy before the learned West Bengal Land Reforms and Tenancy Tribunal, the petitioner shall be precluded from filing any application before the learned Civil Court for repairing.

With the above direction WPLRT 24 of 2021 is accordingly, disposed of.

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

(Hiranmay Bhattacharyya, J.)

(Soumen Sen, J.)