

07.07.2022
Ct. No. 32
S.R./01

FAT 271 of 2020
+
IA No.: CAN 1 of 2020 [Stay]
and
CAN 2 of 2022 [Sec. 5]

**The State of West Bengal represented by
the Land Acquisition Collector,
Hooghly
- Vs -
Sri Sabitri Banerjee**

Mr. Soumitra Bandyopadhyay,
Mr. Aniruddha Sen
.... for the Appellant.

Mr. Ayan Banerjee
Mr. Soumo Chaudhury
Mr. Suman Banerjee
Ms. Debjani Sengupta
..... for the Respondent.

We dictated an order in the present appeal on 6th July, 2022. However, when the said order was placed for our signatures, certain doubts that had cropped up in our mind required to be dispelled and for such reason, without signing the order, verbal directive was issued for listing the application once again under the heading '*To Be Mentioned*' today. Upon hearing the parties today, the unsigned order dated 6th July, 2022 is recalled and matter is taken up for hearing afresh.

Re: CAN 2 of 2020

Records reveal that there has been a delay of seven days in preferring the present appeal against the judgment dated 26th November, 2019 passed by the learned Judge, Land Acquisition Tribunal-cum-

Additional District Judge, 1st Court, Hooghly Sadar at Chinsurah.

Mr. Sen, learned advocate appearing for the appellant/State submits that there had been no intentional delay on the part of the State to prefer the present appeal.

Mr. Banerjee, learned advocate appearing for the respondent/claimant submits that though the appeal was filed in the month of October, 2020, the application for Section 5 has been filed in the month of June, 2022. It is only after the date was fixed for attachment, steps were taken to file the application for condonation of delay.

Considering the averments made in the application for condonation of delay, we are satisfied with the explanation given towards the delay in preferring the present appeal. The dismissal of appeal at this stage on the ground of delay would cause serious prejudice to the State.

We, therefore, condone the delay and allow the application for condonation of delay.

The application being CAN 2 of 2022 is, accordingly, disposed of.

Re: CAN 1 of 2020

Heard the learned advocates and considered the averments made in the application for stay.

The State is directed to deposit the entire decretal amount, as determined by the learned Judge, Land Acquisition-cum-Additional District Judge, 1st Court, Hooghly Sadar at Chinsurah on 26th November, 2019 to the Registrar General, High Court, Calcutta within a period of four weeks from date.

In the event such decretal amount is deposited, the Registrar General shall invest the said amount in a suitable interest bearing fixed deposit with any nationalized bank of his choice and such deposit will be kept renewed until disposal of the appeal.

There shall be an unconditional stay of all further proceedings of the Land Acquisition Execution Case No. 04 of 2020 pending before the Additional District Judge, 1st Court, Hooghly Sadar at Chinsurah for a period of four weeks from date.

In the event, the decretal amount is deposited within the aforesaid period, the order of stay shall continue till the disposal of the appeal.

In the event, the decretal amount is not deposited within the aforesaid period, the claimant shall be entitled to execute the decree.

The application for stay being CAN 1 of 2020, is, accordingly disposed of.

As Mr. Banerjee, learned advocate has entered appearance on behalf of the respondent/claimant, service of notice of appeal upon the said respondent is dispensed with.

Lower Court Records be called for through Special Messenger at the cost of the appellant. Such costs shall be deposited within two weeks from date.

Immediately, after arrival of the Lower Court Records, the office shall examine the same and, if found complete, shall issue notice of arrival of Lower Court Records to the learned advocates appearing for the appellant and the respondent.

The appellant is directed to prepare requisite number of informal paper books-printed, typewritten or cyclostyled, as the case may be, out of Court, within six weeks from the date of service of notice of arrival of Lower Court Records and to file the same after serving a copy upon the Mr. Banerjee.

All formalities regarding preparation of paper books are dispensed with but Mr. Sen, learned advocate for the appellant is directed to incorporate all the relevant documents in the informal paper books.

Liberty to mention.

(Raja Basu Chowdhury, J.) (Tapabrata Chakraborty, J.)