

S/L - 2
4.12.2024
Court. No. 3
S.Kundu

**Calcutta High Court
In the Circuit Bench at Jalpaiguri**

FMAT (MV) 38 of 2023

The National Insurance Company Limited
Vs.
Smt. Sikha Ghosh & Ors.

Mr. Hirak Barman

...for the Appellant.

Mr. Subham Ghosh,
Mr. Mayank Roy

...for the respondent nos. 1, 2 & 3.

1. Originally when the instant appeal was filed the certified copy of the judgment and award filed by the appellant did not contain the requisite particulars to demonstrate the date of the application for copy, the date fixed for notifying requisite number of stamps, the date of delivery of requisite stamps, the date on which the copy is ready for delivery, the date of making over the copy to the applicant, the cost of the copy and the number of sheets used. As the aforesaid certified copy was a defective copy, no report could have been filed by the Stamp Reporter, such fact would corroborate from the Stamp Reporter's Report dated 1st August, 2023. Another defect was also pointed out by the Stamp Reporter as regard non-payment of the statutory deposit.

2. Unfortunately, when the matter was taken up for consideration on 5th September, 2023, the learned advocate for the appellant did not point out the aforesaid defect. Subsequently, on 8th March, 2024 when the aforesaid defect was noted by the coordinate Bench on the prayer of the learned advocate for the appellant, liberty was granted to the appellant to remove the defects.
3. On 14th March, 2024 when the matter once again was taken up for consideration, it was noticed that although, one of the defects had been removed, the defect as regards particulars of the application of the certified copy noted above, had not been removed and as such the appellant was directed to take steps.
4. It appears that on 2nd April, 2024 the appellant had filed the first page of the certified copy of the judgment and order bearing the particulars of the date of the application and the other particulars as noted above. Factum of filing of the aforesaid document would corroborate from page 264 of the General Filing Register. It is unfortunate that on 6th September, 2024, the learned advocate for the appellant sought for liberty to take back the unnumbered application. On the basis of the aforesaid the order dated 6th September, 2024 was passed and the appellant took back the first page of

the certified copy of the order which had been filed and in respect whereof the filing No. A-219 had been issued. No attempt was thereafter made by the appellant to file the certified copy of the order though a liberty was afforded by this Court to file the same. In the interregnum, however, Stamp Reporter had furnished a revised report on 4th April, 2024 recording that the appeal filed is within the period of limitation. However, by reasons of the document being taken back by the appellant, the aforesaid recording has become irregular. Till today, the certified copy of the judgment and order has not been filed in the department. The appellant is continuing this proceeding with the defective appeal.

5. Having regard thereto, I am of the view that the revised report filed by the Stamp Reporter on 4th April, 2024 can no longer be taken into consideration in the light of the appellant having taken back the first page of the copy of the judgment and award. In any event, since, the appellant has already sought for liberty to file the certified copy of the judgment and award in the department unless a fresh certified copy of the judgment is filed, the matter cannot be taken up for consideration any further. Needless to note that

the limitation shall be computed once, the certified copy of the judgment is taken on record.

6. The appeal filed thus can no longer be treated as in order.
7. Having regard thereto unless within two weeks from date a fresh certified copy of the order impugned is filed, the appeal shall be put up under the heading "For Dismissal".

(Raja Basu Chowdhury, J.)