

(2019) 08 CAL CK 0271

In the Calcutta High Court

Case No : Adms. C. Appl Order (FMAT) No. 769 Of 2019, Civil Application (CAN) No. 7744, 7745 Of 2019

Manuara Bibi & Ors

APPELLANT

Vs

National Highways Authority Of India & Ors

RESPONDENT

Date of Decision : 22-08-2019

Acts Referred:

Limitation Act, 1963 — Section 5

Citation : (2019) 08 CAL CK 0271

Hon'ble Judges : Soumen Sen, J;Hiranmay Bhattacharyya, J

Bench : Division Bench

Advocate : Ramen Bose, Banibrata Datta, Shamit Sanyal, Manika Roy

Judgement

Pursuant to the order dated 9th August, 2019, the leaned Advocate for the appellants has removed the defects and the Vakalatnama filed on behalf of the appellants Nos.9, 17 and 18 is accepted.

Re: CAN 7744 of 2019

The appellants have filed this application under Section 5 of the Limitation Act praying for condonation of delay in preferring the instant appeal.

Upon hearing the learned Advocates of the respective parties and after considering the materials on record, we are satisfied that the appellants are prevented by sufficient cause for not preferring the instant appeal within the prescribed period of limitation. We, thus, condone the delay in preferring the instant appeal.

CAN 7744 of 2019 is allowed and disposed of.

Office is directed to formally register the instant appeal.

Re: CAN 7745 of 2019

In this application, the appellants have prayed for appropriate order. The

appellants as well as the respondent No.1 are aggrieved by the order dated 28th September, 2018 passed by the learned District Judge, Nadia in Misc. Arbitration Case No.31 of 2014.

In deciding the application for setting aside of the award, the learned District Judge, Nadia has partly allowed the application filed by the respondent No.1. The part of the arbitral award dated 20th May, 2013, where it has been specified that the amount of Rs.32 Lakhs per acre is determined to be the rate of compensation payable to the land losers in Mouza-Sali, JL No.25, PS-Nakashipara, District-Nadia, has been set aside.

The appellants before us have challenged this part of the order.

The National Highways Authority of India has also challenged a portion of the order passed by the learned District Judge, Nadia where the learned District Judge has set aside the price determined in the award but has not adjudicated on the amount of compensation. The National Highways Authority, however, has deposited with the Competent Authority an amount of Rs.44,45,473/- as was determined by the Competent Authority as compensation payable to the land losers.

The appellants shall be entitled to withdraw the said sum from the Competent Authority upon proper identification of the claimants. The Competent Authority shall issue separate cheques and/or bank drafts according to the shares to which they are entitled to within two weeks from the date of communication of this order.

Let the Lower Court Records of this case be called for immediately by Special Messenger at the costs of the appellants. Such costs are to be deposited within one week from date.

The appellants are directed to put in the requisites, namely, postal costs, written up notice forms and correct postal address for service of notice of appeal upon the respondent No.2 within a period of one week from date. Upon deposit of such requisites, the office is directed to take steps for effecting service of notice of appeal upon the respondents forthwith. In default of putting in the requisites within the aforesaid time, put up for final orders.

The appellants shall prepare and file requisite number of informal paper books, printed, typewritten or cyclostyled, as the case may be, out of court, within three weeks.

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

The application for appropriate order being CAN 7745 of 2019 is disposed of.

Ms. Manika Roy, learned Counsel appearing on behalf of N.H.A.I undertakes to file Vakalatnama within a week from date and waives the service of notice upon

the respondent No.1.

As such, the instant appeal is treated as ready as regards service in so far as the respondent No.1 is concerned.

At this stage, it has been submitted by the learned Advocates of the respective parties that the National Highways Authority of India being the respondent No.1 herein has already preferred an independent appeal being FMAT 31 of 2019 challenging the self-same order wherein direction for paper book has already been passed.

Both the appeals being FMAT 31 of 2019 and FMAT 769 of 2019 shall be heard analogously in order to avoid conflict of judicial decisions.

Let the appeals appear in the list after expiration of the period fixed for filing of paper books.