

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

Present:

The Hon'ble Chief Justice Prakash Shrivastava

And

The Hon'ble Justice T.S. Sivagnanam

And

The Hon'ble Justice I.P. Mukerji

And

The Hon'ble Justice Harish Tandon

And

The Hon'ble Justice Tapabrata Chakraborty

Dated: 17th January, 2022

W.P.A 5323 of 2020

Court in its own motion:

In Re: Matters pending with interim orders in the High Court at Calcutta and Courts subordinate to it including the Tribunals within the State of West Bengal and Union Territory of Andaman & Nicobar Islands during the prevailing COVID-19 situation related non-availability of access to Courts.

The Court:

1. The above suo motu writ petition under Article 226 and 227 of the Constitution was registered on 24th of March, 2020 on account of onset of COVID-19 Pandemic with a view of safeguard the interest of the litigants.

2. On 24th of March, 2020 this Court had passed the following order:

“In exercise of the authority under Articles 226 and 227 of the Constitution, all matters in which interim orders were subsisting as on March 16, 2020 and which may have expired or which are due to expire

on or before April 9, 2020 will stand extended till April 30, 2020 or until further orders of Court, unless specifically dealt with by any judicial order to the contrary. All parties affected by continuation of the interim orders will be at liberty to apply for vacating or variation of such orders.”

3. This order was extended by order dated 23rd of April, 2020 upto 30th of June, 2020 or until further orders of Court, unless specifically dealt with by any judicial order to the contrary with further stipulation that the order will apply to all orders passed, whether by this Court or any Subordinate Court or Tribunal after 15th of March, 2020 and that the order will also apply to order pertaining to the Original Side of this Court.

4. This order has been extended by order dated 23rd of June, 2020 upto 30th of September, 2020 and thereafter by order dated 7th of August, 2020 upto 30th of November, 2020 with the following modifications:

“Conditional orders of Courts allowing occupation of any premises subject to payment of rent or occupational charges will continue, notwithstanding the non-deposit of the rent or occupation charges during the period 15th March, 2020 till 30th November, 2020. Similarly, rent or occupation charges not deposited in terms of the rent control legislations will not immediately make the tenant or occupant liable for eviction till 30th November, 2020 or earlier orders of Court.

All other conditional orders of Court will continue to remain in operation until further orders, notwithstanding the non-fulfillment of the conditions imposed. This will apply to non-fulfillment of the conditions for the period beginning 15th Mach, 2020 till 30th November, 2020 or earlier order of Court.

This order will also apply to orders pertaining to the Original Side of this Court.”

5. By order dated 23rd of February, 2021 the earlier order dated 7th of August, 2020 was extended upto 31st of March, 2021.

6. When the matter was taken up on 26th of March, 2021 this Court found no reason to extend the original order any further beyond March 31, 2021 except as regards the matters specifically mentioned therein and had disposed of the suo motu writ petition.

7. Considering the second wave of COVID-19 Pandemic this Court by order dated 20th of April, 2021 had recalled the order dated 26th of March, 2021 and had restored the suo motu writ petition to the file.

8. By the order dated 20th of April, 2021 this Court had extended the interim orders earlier passed in the petition till 30th of June, 2021, thereafter the interim order was continued by subsequent orders and finally by order dated 14th of September, 2021 it was extended upto 08th of October, 2021.

9. On 04th of October, 2021 considering the final order passed by Hon'ble Supreme Court in M.A. No. 665 of 2021 in SMW(C) No 3 of 2020 on 23rd of September, 2021, the writ petition was disposed of by making the interim order dated 14th of September, 2021 absolute.

10. Now the third wave of COVID 19 Pandemic has set in and the COVID cases, not only in the State of West Bengal but in other parts of the country also are increasing at a rapid speed. Considering the situation the Hon'ble Supreme Court has also entertained M.A. No. 21 of 2022 in Suo Motu Writ Petition (C) No. 3 of 2020 and by order dated 10th of January, 2022 has restored its earlier order dated 23.03.2020 and has passed the following order:

- “I. The order dated 23.03.2020 is restored and in continuation of the subsequent orders dated 08.03.2021, 27.04.2021 and 23.09.2021, it is directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings.
- II. Consequently, the balance period of limitation remaining as on 03.10.2021, if any, shall become available with effect from 01.03.2022.
- III. In cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01.03.2022. In the event the actual balance period of limitation remaining, with effect from 01.03.2022 is greater than 90 days, that longer period shall apply.
- IV. It is further clarified that the period from 15.03.2020 till 28.02.2022 shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.”

11. In the above circumstances and considering the prevailing COVID situation in the State, by a separate order passed today we have restored the present writ petition to its original position.

12. Now having regard to the current COVID situation and the problem faced by the litigants in the State on account of the rapid spread of virus and

various restrictions imposed consequent thereto, we deem it proper to issue following directions at this stage:

- I. The order dated 24th of March, 2020 as modified and continued by the subsequent orders is restored with the condition that interim orders in matters which are subsisting as on today i.e. 17th of January, 2022 and are due to expire on or before 28th of February, 2022 will stand extended till 28th of February, 2022 or until further order of the Court, unless specifically dealt with by any judicial order to the contrary. All parties affected by the continuation of the interim orders will be at liberty to apply for vacating or variation of such orders. This order will also apply to orders pertaining to the Original Side of this Court.
- II. Conditional orders of Courts allowing occupation of any premises subject to payment of rent or occupational charges will continue, notwithstanding the non-deposit of rent or occupational charges during the period 17th of January, 2022 till 28th of February, 2022. Similarly, rent or occupation charges not deposited in terms of the rent control legislations will not immediately make the tenant or occupant liable for eviction till 28th of February, 2022 or earlier orders of this Court.
- III. All other conditional orders of Courts will continue to remain in operation until 28th of February, 2022, notwithstanding the non-fulfilment of the conditions imposed. This will apply to non-fulfilment of the conditions for the period from 17th of January, 2022 till 28th of February, 2022 or earlier order of Court.

13. Needless to mention, the benefit of limitation in terms of order of the Hon'ble Supreme Court dated 10th of January, 2022 passed in Suo Motu Writ Petition (C) No. 3 of 2020 will be available to all the parties covered by the said order.

14. This order be published on the official website of this Court and also be communicated to the Courts subordinate to this Court and all Tribunals; learned Advocate General; learned Additional Solicitor General; and the Presidents and Secretaries of the three wings of the Bar in this Court with a request to circulate the same among lawyers, litigants and others interested.

15. List on 23.02.2022.

(Prakash Shrivastava, C.J.)

(T.S. Sivagnanam, J.)

(I.P.Mukerji, J.)

(Harish Tandon, J.)

(Tapabrata Chakraborty, J.)