

WP(C) 7170/2015

BEFORE

THE HON'BLE MR. JUSTICE B.K. SHARMA

THE HON'BLE MR. JUSTICE PARAN KUMAR PHUKAN

By means of this writ petition, the petitioner seeks to challenge the order dated 30.11.2007 (Annexure-D) passed in FT Case No. 222/07 and also the order dated 29.9.2015 (Annexure-F) passed in Misc. Case No. 31/2015 of the Foreigners Tribunal, 2nd, Karimganj and Hailakandi respectively.

The first order dated 30.11.2007 was ex-parte and accordingly the petitioner made an application for setting aside the ex-parte order. The application was accompanied by an application for condonation of delay. However, the application for condonation of delay was dismissed by the second order dated 29.9.2015.

I have heard Mr. F.K.R. Ahmed, learned counsel for the petitioner. Also heard Mr. P.K. Bora, learned State Counsel and Ms. G. Sarma, learned counsel appearing on behalf of Mr. S.C. Keyal, learned ASGI. I have also considered the entire materials on record.

As recorded in the order dated 30.11.2007, inspite of service of notice the petitioner remained absent without any step. Situated thus, the Tribunal had no other option than to answer the reference ex-parte.

Nearly more than 8 years thereafter the petitioner filed an application under Order 9 Rule 13 CPC for setting aside the ex-parte order and the application was accompanied by an application for delay condonation petition filed under Section 5 of the Limitation Act.

On perusal of the application for setting aside the ex-parte order and so also the delay condonation petition, it is found that there was no proper explanation of the illness and the medical certificate, which was produced by the petitioner covered the period of purported illness from 12.9.2007 to 15.2.2008.

Above being the position, we see no reason to interfere with the impugned order.

Accordingly, the writ petition is dismissed.

In paragraph-3 of the writ petition, the petitioner has stated that his father had to migrated to India due to religious persecution from the then East Pakistan. In that view of the matter, irrespective of dismissal of the writ petition, the respondents may consider about the protections provided to such illegal migrants vide notifications dated 7th September, 2015 issued by the Government of India in the Ministry of Home Affairs, by which amendments have been brought to the provisions of the Passport (Entry into India) Rules, 1950 and so also to the Foreigners Order, 1948. In terms of the said amended provisions, the persons belonging to minority communities in Bangladesh and Pakistan, namely, Hindus, Sikhs, Christians, Jains, Parsis and Budhists, who were compelled to seek shelter in India due to religious persecution or fear of religious persecution and entered in to India on or before 31st December, 2014 are entitled to exemption as provided for by the said amendments.

Let copies of this order be furnished to S.P.(B) and DC, Hailakandi and so also Mr. P.K. Bora, learned State for their necessary follow up action.