

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. _____ OF 2023
(@ Diary No. 32544/2022)

BINA BASNETT

APPELLANT(S)

VERSUS

STATE OF SIKKIM & ORS.

RESPONDENT(S)

O R D E R

Delay condoned.

This appeal impugns the order dated 10.05.2022 passed by the National Green Tribunal (NGT), Eastern Zone Bench, Kolkata. Paragraph 5 of the impugned order states that the proceedings initiated before the NGT were premature, as the construction, subject matter of the proceedings, had not yet reached 5½ storeys. We do not agree with the said finding and reason to dismiss the petition, as the construction post the permissions had admittedly commenced. It is informed at the bar that the construction is now complete.

Without expressing any opinion on the merits of the case, we set aside the impugned order and restore O.A. no. 38/2022/EZ to its original position, to be decided afresh without being influenced by the impugned order.

Learned counsel for the respondents have submitted that there has been a considerable delay in listing of the present appeal on

account of lapses on the part of the appellant - Bina Basnett. This is disputed by the appellant - Bina Basnett, who also submits that the plea is contradictory. We express no opinion in this regard. As an order of remand, hearing and decision is being passed, all pleas and contentions of the parties are left open.

The appeal is allowed and disposed of in the above terms. No costs. Parties will appear before the NGT on 18.10.2023, when a date of hearing will be fixed.

Pending application(s), if any, shall stand disposed of.

.....J.
(SANJIV KHANNA)

.....J.
(S.V.N. BHATTI)

NEW DELHI;
SEPTEMBER 25, 2023.

ITEM NO.61

COURT NO.3

SECTION XVII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CIVIL APPEAL Diary No. 32544/2022

(Arising out of impugned final judgment and order dated 10-05-2022 in OA No. 38/2022 passed by the National Green Tribunal, Eastern Zone Bench, Kolkata)

BINA BASNETT**Petitioner(s)****VERSUS****STATE OF SIKKIM & ORS.****Respondent(s)**

(IA No.171217/2023-CONDONATION OF DELAY IN FILING and IA No.171216/2023-STAY APPLICATION and IA No.171219/2023-CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS)

Date : 25-09-2023 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE S.V.N. BHATTI

For Petitioner(s)

Mr. Sukumar Pattjoshi, Sr. Adv.
Mr. Prakash Kumar, Adv.
Mr. Pratap Shanker, Adv.
Mr. Rahul Ranjan Singh, Adv.
Mr. Ankit Kumar, Adv.
Mr. Manoj Bhardwaj, Adv.
Mr. Swetank Shantanu, AOR

For Respondent(s)

Mr. Basava Prabhu S. Patil, Sr. Adv./AG
Mr. Sameer Abhyankar, Adv./AOR
Ms. Nishi Sangtani, Adv.
Ms. Vani Vandana Chhetri, Adv.
Mr. Naman Jain, Adv.

Mr. Pinaki Misra, Sr. Adv.
Mr. Sanjay Upadhyay, Adv.
Ms. Mayuri Raghuvanshi, AOR
Ms. Mansi Bachani, Adv.
Ms. Sonali Sen Gupta, Adv.
Mr. Kazi Sangay Thupdan, Adv.
Mr. Soumitra Jaswal, Adv.
Mr. Vyom Raghuvanshi, Adv.

Mr. Balbir Singh, ASG

Mr. Shyam Gopal, Adv./AOR

**UPON hearing the counsel the Court made the following
O R D E R**

Delay condoned.

**The appeal is allowed and disposed of in terms of the signed
order.**

Pending application(s), if any, shall stand disposed of.

**(DEEPAK GUGLANI)
AR-cum-PS**

**(R.S. NARAYANAN)
ASSISTANT REGISTRAR
(signed order is placed on the file)**