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13.01.2023
kaushik

**C.P.A.N. 525 of 2021
in
WPA 25371 of 2017**

Anushree Giri (Karan)
Vs.
Siddhartha Maity & Ors.

Mr. Soumen Dutta
Mr. Sabyasachi Bhattacharya
... for the petitioner.

Mr. Probal Sarkar
... for the pvt. Respondent in the original
suit.

Mr. Kaushik Chatterjee
Mr. Nilanjan Adhikary
... for the Contai Municipality.

Supplementary affidavit filed in Court be taken on
record.

Municipality and the private opposite party in the
writ petition are represented.

Leave is granted to the learned advocate-on-
record for the petitioner to incorporate the present
incumbents in the Municipality.

The writ petition was filed complaining that, the
private opposite party was acting in breach of an order passed
by the appeal Court on November 10, 2014.

There were two civil suits. An appeal was preferred in one of the civil suits. The appeal Court passed an order on November 10, 2014. The relevant portion of the order was quoted in the order dated July 19, 2018 passed in the writ petition.

The order dated July 19, 2018, after noting the direction of the appeal Court, restrained the Municipality from granting any sanction of any building plan that may be filed by the private respondent in respect of properties involved in the civil suits till the disposal of the civil suits.

An appeal was carried from the order dated July 19, 2018. Such appeal being MAT 993 of 2018 was disposed of by a judgment and order dated June 13, 2019. The appeal Court held as follows:

"After hearing the learned advocates for the parties and upon perusing the impugned judgment and order, we do not notice any palpable infirmity or perversity in the impugned judgment and order which would warrant any interference in an Intra-Court Mandamus Appeal. That apart and in any event, the impugned judgment and order is supported with cogent and justifiable reasons.

However, we are of the view that notwithstanding the observations made by the Court in the impugned judgment and order, the same shall not preclude the concerned Municipality from issuing and/or receiving the "A" & "B" form

from the appellant since mere issuance of such form or receipt thereof does not confer any right upon the appellant to make any construction de hors a duly sanctioned plan which has to be obtained in accordance with law in the light of the observations made by the learned Single Judge in the impugned judgment and order dated 19th July, 2018.

With the above observation, the appeal and the application for stay stand disposed of."

The appeal, which was noticed in the order dated July 19, 2023 is still pending.

There is a sanction plan bearing plan no. 311/20-21 dated March 3, 2021 granted by the Municipality.

The Court is informed that construction in terms of such sanctioned plan is continuing as on date. According to the Municipality, the sanction was granted in respect of an immovable property, which is not the subject matter of the properties in the civil suits.

Two civil suits are involved.

The appeal in which, the order dated November 14, 2014 was passed, records the stand of the Municipality. Then, the Municipality took the stand that, they were not acting upon the application of the private respondent for sanction and that, they would abide by the outcome of the civil suit.

In such view, it would be appropriate to direct the

Municipality to disclose the name of the persons, who sanctioned the plan on March 3, 2021 to the learned advocate for the contempt petitioner within 72 hours from now. Thereafter, the learned advocate-on-record for the contempt petitioner will add such persons as a party-respondents in the contempt petition. In addition thereto, leave is granted to the contempt petitioner to add such other parties, who are responsible in violating the order dated July 19, 2018.

The Officer-in-Charge of the local police station is directed to ensure that no construction takes place at the site. He will take photographs of the existing construction.

List the application on January 20, 2023.

Petitioner will serve a copy of the contempt application on the added contemnors. Petitioner will serve a copy of this order on the police for compliance.

(Debangsu Basak, J.)