

21.10.2020.
Item No. 16.
Court No.16
ap

**F.M.A. 926 of 2020
(M.A.T. 703 of 2020)
With
IA No. CAN 1 of 2020
(Through Video Conference)
Shree Shree Sridhar Jew Thakur & Anr.
Versus
Sri Swapan Kumar Dutta & Ors.**

Mr. Jayanta Kumar Mitra, Sr. Adv.
Mr. Jaydip Kar, Sr. Adv.
Mr. Syed Mansur Ali,
Mr. Tauhid Khan.

...For the appellants.

Mr. Bikash Ranjan Bhattacharyya, Sr. Adv.
Mr. Debabrata Saha Roy,
Mr. Soumen Bhattacharyya,
Mr. Subhankar Das.

...For the respondents/writ petitioners.

Mr. Wasim Ahmed,
Mr. Manas Kumar Sadhu.

...For the State.

The appeal has been carried against an order of October 14, 2020 by which the appellants' ongoing construction in Andul has been required to be demolished pursuant to a notice of February 24, 2020 issued by the District Engineer of the Howrah Zilla Parishad.

The appellants claimed that an adjournment was sought before the single bench, which was declined.

According to the appellants, the notice dated February 24, 2020 called upon the appellants herein to show-cause as to why some perceived unauthorized construction should not be demolished and the

appellants have apparently responded to such notice but no hearing has taken place in such regard. The appellants submit that, in such circumstances, the show-cause notice cannot be treated as final nor any order made on the basis thereof.

It appears that since the appellants were not represented before the single bench, appropriate assistance on behalf of the appellants could not be rendered and the notice dated February 24, 2020 was perceived to be a final report.

Since such notice cannot be regarded as a final report, the demolition directed to be undertaken by the order impugned dated October 14, 2020 cannot be undertaken. Such part of the order cannot be sustained.

At the same time, since the writ petitioners-respondents have complained of the appellants herein having made illegal construction, the ongoing construction should be stopped till two weeks after the vacation.

The impugned order will remain stayed for a period of two weeks after the vacation.

The matter will appear before the single bench on November 18, 2020 for appropriate further orders to be passed in the light of the observations herein and the merits of the matter.

Since this order adequately addresses the concerns of the appellants, no useful purpose would be served in proceeding with the appeal any further.

F.M.A. 926 of 2020 along with CAN 1 of 2020 filed therein is disposed of without any order as to costs.

All parties are directed to act on a server copy of this order on usual undertakings.

(Sanjib Banerjee, J.)

(Arijit Banerjee, J.)