

18.08.2021
Item No.02
Court No.30
Krishnendu

**F.M.A. 710 of 2021
with
CAN 1 of 2021
(THROUGH VIDEO CONFERENCE)**

In re: Tribhuban Nath Jaiswal

....Appellant

**- Versus –
Shyama Prasad Dey Paul & Ors.**

.... Respondents

Mr. Chittapriya Ghosh
Mr. Anirban Dey
Ms. Priyanka Saha
For the Appellant/ Respondent No.10
Mr. Anindya Lahiri
Mr. Arkadipta Sengupta
For the Writ Petitioners/ Respondent
nos. 1& 2

The present appeal has been preferred against an order dated 15th February, 2021 passed in W.P.A. 9843 of 2020.

Mr. Ghosh, learned advocate appearing for the appellant, who was the respondent no.10 in the writ petition, submits that the learned Single Judge erred in law in directing the respondent no.9 herein to consider the application filed by the writ petitioners on an urgent basis and to dispose of the same by a reasoned order since any order passed by the respondent no.9 would frustrate the ejectment suit filed by the appellant

against the wife of the writ petitioner no.1, being Ejectment Suit No. 33 of 2011.

Per contra Mr. Lahiri, learned advocate appearing for the writ petitioners/respondent nos. 1 and 2 submits that on the basis of the liberty granted by the Hon'ble Appeal Court in the appeal, being F.A. 8 of 2016, the writ petitioners submitted an application before the respondent no.9, praying for an order to recognize them as tenants under the Government. The said application was not being disposed of and as such the learned Single Judge directed the competent authority to consider and dispose of the same within a specified time. Such direction does not suffer from any infirmity and does not prejudice any right of the appellant and as such the present appeal and the connected application are liable to be dismissed.

We have perused the order passed by the learned Single Judge. The submission of Mr. Ghosh that any decision of the respondent no.9 on the application filed by the writ petitioners would frustrate the pending ejectment suit, is not acceptable to us.

In course of hearing, this Court has also been informed that the respondent no.9 fixed a date for hearing and the writ petitioners and the appellant duly appeared before the appellate authority in compliance

with the order dated 15th February, 2021 passed in the writ petition.

In the said conspectus and as the order impugned in the present appeal does not suffer from any infirmity, we are not inclined to interfere with the same.

Accordingly, the appeal and the connected application, being C.A.N. 1 of 2021, are dismissed.

There shall, however, be no order as to costs.

All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

Urgent Photostat certified copy of this order, if applied for, be handed over to the parties on compliance of necessary formalities.

(Subhasis Dasgupta, J.) (Tapabrata Chakraborty, J.)