

D/L
Item No. 16
06.12.2021
KOLE

**FMA 998 of 2021
With
IA No. CAN 1 of 2021**

**Prosenjit Sardar
-Vs.-
The State of West Bengal & Ors.**

*Mr. B. Bhattacharyya
Mr. A. Kumar Mukherjee,
Mr. A. Sinha*

...for the appellant.

*Mr. S. Sanyal,
Mr. S. Saha,*

...for the State.

*Mr. D. Saha Roy,
Mr. A. K. Nag,
Mr. S. Das*

...for the Corporation.

By consent of the parties the appeal and the application are taken up for hearing together.

The writ petitioner/appellant had initially approached this Court by filing WPA 7059 of 2020 with the grievance that certain unauthorized constructions were being made within the jurisdiction of the Bidhannagar Municipal Corporation and apart from issuing 'stop-work' notices, the Corporation took no effective steps to ensure that such notices were implemented. As a result, it was alleged that unauthorized construction was continuing unabated. The Learned Single Judge passed an *interim* order restraining unauthorized construction. Some persons claiming to have been adversely affected by such *interim* order, who were not made parties in the writ petition, appealed against such

order and filed applications for leave to appeal. The Division Bench disposed of the appeals by directing the Corporation to dispose of the hearing pertaining to the 'stop-work' notices within four weeks after hearing all concerned parties. The restraint order that the learned Single Judge had passed was directed to continue till the disposal of the hearing in relation to the 'stop-work' notices.

The present writ petition has been filed with the grievance that the earlier order of the Division Bench has not been implemented. The writ petitioner has not received a single notice of hearing from the concerned officer in the Corporation. Unauthorized construction is still continuing.

The learned Single Judge, by the order under appeal before us, declined to interfere holding, *inter alia*, that since in effect the writ petitioner was complaining of non-compliance with a Division Bench order, the learned Single Judge was not in a position to entertain the writ petition. Hence this appeal.

We have heard the learned Counsel for the parties. We fail to appreciate what further order we can pass. There is already an order of a Coordinate Bench requiring the Corporation to take necessary steps in the matter. In the event the writ petitioner/appellant is of the view that such order is being violated, the writ petitioner may pursue appropriate remedy.

The earlier writ petition is still pending. We grant liberty to the appellant to bring all events subsequent to the passing of the earlier Division Bench order to the notice of

the learned Judge, who may hear the first writ petition, by filing supplementary affidavit or an application as he may be advised.

We are of the view that in the facts and circumstances of the case, no further order need be passed by us.

The appeal and the connected application are accordingly disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Arijit Banerjee, J.)

(Kausik Chanda, J.)