

MAT 454 of 2021
With
CAN 1 of 2021

Shyama Prasad Porel

-Vs-

The State of West Bengal & Ors

Mr. Uday Narayan Betal

... for the

Appellant

Mr. N. C. Bihani

... for the State

Party/Parties is/are represented in the order of their name/names as printed above in the cause title.

Mr. Betal, Learned Counsel, appears for the appellant. The appellant was the writ petitioner before the Hon'ble Single Bench.

The State of West of Bengal is represented by Mr. Behani, Learned Counsel.

Although Affidavit-of-service is filed by the appellant, none appears for the private respondents.

Under challenge in this appeal is the order of the Hon'ble Single Bench dated 5th March, 2021 in the writ petition. The Hon'ble Single Bench considered the dispute raised by the appellant/the writ petitioner regarding the alleged infringement of his civil rights connected to the private respondents' drawing their

water lines beneath the land of the appellant under a Water Supply Scheme implemented by the respondents/the Panchayat Authority.

The appellant complains of the fact that the order of the Hon'ble Single Bench does not recognise the *ad interim* order passed by the Learned Civil Court (Junior Division), Amta, Howrah in Title Suit No. 168 of 2019, *inter se* the appellant as the plaintiff and the private respondents as the defendants.

By the said order of *ad interim* injunction dated 7th December, 2019, the Learned Civil Court (Junior Division) (*supra*) restrained the parties from changing the nature and character of the suit property in any manner by making any construction thereon. The parties were further directed to maintain *status quo* with regard to the nature, character and their respective possession in the suit property.

Mr. Betal reiterates the argument that the order made by the Hon'ble Single Bench dated 5th March, 2021 (*supra*) ought to have recognised the terms of the order of the Learned Civil Court (Junior Division) (*supra*) and consequently restrained the respondents/the Panchayat Authority, in exercise of its jurisdiction under Article 226 of the Constitution of India, from permitting the private respondents/the defendants in the suit to draw water supply from beneath the land of the appellant.

Mr. Bihani, Learned State Counsel, submits that the prayers made in the appeal are misconceived in as much as the land in question is an undivided property. The water supply *per se* relates to the entire locality in issue under the Panchayat Administration provided to individual consumers through pipelines laid beneath the surface of not only the undivided land of the parties to the suit (*supra*) but also the land of other persons residing in the locality.

It is submitted by Learned State Counsel that drawing of water supply from the mains of the the Panchayat Authority does not in any manner violate the order of *ad interim* injunction passed by the Learned Civil Court (Junior Division) (*supra*).

It is argued that in the Jurisprudence of Environmental Law as on date water is treated not only as a natural resource but, a source of life itself.

Accordingly, Learned State Counsel submits that in the event the appellant is aggrieved by any grievance connected to the drawing of water supply by the defendants/private respondents, such grievance should be carried before the Hon'ble Civil Court (Junior Division).

Having heard the parties and considering the materials placed, this Court finds no reason to take a stand different from the stand taken by Learned State Counsel.

Accordingly, the appeal does not succeed.

Parties may take steps, if and so advised, in terms of the order of the Hon'ble Single Judge.

MAT 454 of 2021 along with **CAN 1 of 2021** stand thus **disposed of**.

Since this appeal has been decided on the limited question of the requirement or otherwise of exercise of writ jurisdiction of the Hon'ble Court in the facts and circumstances of this case, affidavits connected to the application for appropriate orders being CAN 1 of 2021 are not invited. Thus, the other allegations made in such application shall be deemed to be denied and disputed.

All parties to act on a server copy of this order duly obtained from the official website of the Hon'ble High Court, Calcutta.

(Hiranmay Bhattacharyya,J.) (Subrata Talukdar,J.)