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SB

23.06.2021
Ct. No. 16

W.P.L.R.T. 25 of 2021

FARIDA BEGUM & ANR.
Vs.
STATE OF WEST BENGAL AND ORS.
(Via Video Conference)

Mr. Surendra Kumar Sharma.... For the petitioners

Md. Abdul AlimFor respondent No. 3

Mr. Tapan Mukherjee For the State

Petitioners have approached this Court on a plea that the petitioners were unable to move the Tribunal for interim relief as the Tribunal is not presently functioning. However, it appears that an application being M.A. 794 of 2018 was filed for interim relief . We do not find any reflection of any order made available to us that the said application was ever taken up for consideration by the learned Tribunal.

When this matter was moved before this Court a co-ordinate Bench on 7th June, 2021 granted an interim order in the nature of *status quo* initially for a period of seven days and thereafter the said interim order was continued from time to time. The relevant portion of the order dated 7th June, 2021 is reproduced below:

“It is submitted by Mr. Sharma that the petitioners have challenged an order passed by the Thika Controller, Howrah recording the name of the respondent no. 3 as a thika tenant with regard to the premises in question before the Tribunal below and the said application is pending.

During pendency of the application, the said

respondent no. 3 is trying to change the nature and character of the premises in question and proceeding with the demolition work of the said premises. The petitioners cannot approach the Tribunal since the same is not functioning due to pandemic situation.

In view of the nature of allegation made in this petition and the urgency pleaded, we are of the opinion that the parties should maintain status quo with regard to the nature and character of the premises in question for a period of seven days or, until further order/orders whichever is earlier.”

Today, the respondent no. 3 is represented by Md. Alim. It is submitted on behalf of the private respondent no. 3 that he has been declared as a Thika tenant. It is further submitted that during the pendency of the proceeding on the strength of the order passed by the Thika Controller the respondent no. 3 has obtained the necessary building plan duly sanctioned by the Howrah Municipal Corporation and construction is being raised in terms of the said sanction plan. It is contended that in the event, the respondent no. 3 is prevented from raising further construction it will cause irreparable loss and prejudice to the respondent no. 3. It thus appears that some kind of construction work is presently going on in the site. In view of the order dated 7th June, 2021 no further construction could have taken place after 7th June, 2021.

Mr. Sharma, learned Counsel for the petitioners shall serve a copy of the application being M.A. 794 of 2018 upon Mr. Alim, learned Counsel for the respondent

no. 3 in course of this week. The petitioners shall be entitled to move the Tribunal for urgent relief on the basis of M.A. 794 of 2018 since it has been submitted by the learned advocate representing the respondent no. 3 that the Tribunal is taking up urgent matters and also that such application was tagged with case No. O.A. 127 of 2010.

For the reasons recorded by us earlier and taking into consideration the order passed by the co-ordinate Bench dated 7th June, 2021 purely as a temporary measure, we extend the orders of the status quo for a period of twelve weeks or until this matter is taken up by the Tribunal whichever is earlier. The Tribunal shall be free to decide the question whether the petitioners are entitled to the order of *status quo* after full facts are brought to the notice of the learned Tribunal. The Tribunal may if deem fit and proper extend the order of *status quo* or pass appropriate order after hearing the learned advocates for the parties without being influenced by the observations made by us in this order or by the order dated 7th June, 2021. The matter may be heard by the learned Tribunal through virtual platform/hybrid mode/physical hearing follow the COVID protocols.

W.P.L.R.T. 25 of 2021 is thus disposed of with the aforesaid direction.

Urgent photostat certified copy of this order if

applied for, may be given to the parties, upon compliance of all formalities.

(Hiranmay Bhattacharyya, J.)

(Soumen Sen, J.)