

21.
29-11-2021
debajyoti
(Ct. no.06)

MAT 592 of 2021
with
IA NO:CAN/1/2021

Sri Dilip Shaw & Anr.
Vs.
Smt. Ranu Pal & Ors.

Mr. Tapas Kumar Dey
... For the Appellants.

Mr. Gopal Chandra Ghosh,
Mr. Arnab Roy,
Mr. Satyam Mukherjee
... For Respondent no.1.

Mr. Ranajit Chatterjee,
Mr. Subhrangsu Panda
... For the K.M.C.

Mr. Sk. Md. Galib,
Mr. Somraj Dhar
... For the State.

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

The writ petitioners had approached this Court by filing W.P.11346(W) of 2018 complaining that the private respondents (present appellants) had made unauthorized construction in violation of the sanctioned plan. The writ petition was disposed of by an order dated August 03, 2018 by the learned Single Judge after considering a report filed by the Deputy Chief Engineer (Civil)/Building, Kolkata Municipal Corporation, directing demolition of the unauthorized construction as was found to have been made by the private respondents in the writ application.

Pursuant to such order, the unauthorized constructions were demolished by the Corporation authorities.

The present writ petition has been filed alleging that the demolished portion has been reconstructed by the private respondents/appellants. The learned Single Judge called for reports from the Corporation authorities. Two reports were filed, one by the Director General of Building, dated June 24, 2021 and the other by the Executive Engineer/Building of the same date. Both the reports unequivocally record that the grievance of the writ petitioners is justified and the private respondents have reconstructed the structure that had been demolished by the Corporation pursuant to orders of this Court since the same was unauthorized. The learned Single Judge directed demolition of the reconstructed portion. The Municipal Commissioner was also directed to withdraw the building plan and not to re-issue such plan to the private respondents without the leave of this Court. In view of the conduct of the private respondents, cost of Rs.5,00,000/- was imposed on them. Being aggrieved, the private respondents are before us.

When this matter was first moved before the appeal court on August 18, 2021, a report was called for by the Division Bench from the Corporation authorities. Such report was filed by the Deputy Chief Engineer (Civil)/Building/North Building Department, Kolkata Municipal Corporation, dated September 13, 2021. The report was taken on record on November 10, 2021.

The aforesaid report confirms the case of the writ petitioners. The last paragraph of the said report reads as follows:

“ During hearing the petitioner submitted that they have made unauthorized construction which is beyond the sanctioned plan vide no. B/30/III/2017-18 dated 20.03.2018. They have also

submitted that they have reconstructed the unauthorized construction which was earlier demolished by the Building Department. The premises was again inspected on 10.09.2021 by the Executive Engineer (C)/Bldg./Br-III along with concerned Assistant Engineer (C) and Sub Assistant Engineer (C) and it is found that the petitioner (Person Responsible) has only removed the tin shed at the top floor except the supporting iron structures upon which the tin shed was rested and all other unauthorized construction which were demolished earlier were reconstructed. ”

It appears that the appellants have scant regard for orders of court. We see no reason to interfere with the order impugned. Clearly, the appellants have tried to overreach orders of court by reconstructing structures which are unauthorized and were earlier demolished by the Corporation in terms of this Court's order. We were not inclined to interfere with the cost imposed on the appellants. However, the eloquence of learned advocate for the appellants has persuaded us to reduce the costs from Rs.5,00,000/- to Rs.50,000/- to be paid to the State Legal Services Authority within a fortnight from date. The other portions of the impugned order shall remain unaltered.

The reconstructed unauthorized structures are to be demolished by the Corporation in terms of the order of the learned Single Judge and the Corporation will be at liberty to recover the costs of such demolition from the appellants.

The appeal and the connected application are, accordingly, disposed of.

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

Urgent photostat certified copies of this order, if applied for, be supplied to the parties on compliance of necessary formalities.

(Kausik Chanda, J.)

(Arijit Banerjee, J.)