

09.12.2021
Item No.13.
Court No.6.
S. De

Through Video Conference

**F.M.A. 804 of 2021
I.A. No. CAN/1/2021
I.A. No. CAN/2/2021**

Arka Enterprises.

Vs

Asansol Municipal Corporation & Ors.

Mr. Debabrata Saha Ray,
Mr. Falguni Bandyopadhyay,
...for the appellant.

Mr. Santanu Chatterjee,
...for the respondents.

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

The writ petitioner claims to have done certain civil works for the erstwhile Kultu Municipality which, subsequently, merged with the Asansol Municipal Corporation. The grievance of the writ petitioner is that some of his bills have not been paid at all and some other bills have been only partly paid. He says that although there is no dispute regarding the bills, the payments have been wrongfully withheld.

He had initially approached this Court by filing W.P. No.14162 (W) of 2018. By an order dated September 11, 2018, the learned Single Judge disposed of the writ petition by granting liberty to the

petitioner to submit a detailed representation along with relevant documents to the appropriate authority which was to be considered and disposed of by such authority.

The writ petitioner says that he made such representation along with supporting documents. The Commissioner, Asansol Municipal Corporation, gave a hearing to the petitioner on January 7, 2019 and passed an order rejecting the petitioner's claim. The Commissioner held that relevant documents were not produced by the petitioner in support of his claim.

The petitioner challenged the order of the Commissioner, Asansol Municipal Corporation by filing W.P.A. 5045 of 2019. The learned Single Judge dismissed the writ application observing that the same will not stand in the way of the petitioner approaching the appropriate forum, in accordance with law, for redressal of his grievances. The learned Single Judge observed that the claim of the petitioner is far from being admitted. The claim is, in fact, disputed. Disputed questions of fact cannot be conveniently adjudicated before the writ Court. Accordingly, the writ petition was dismissed.

The writ petitioner is before us in appeal. We have heard learned counsel for the parties. We have seen the order of the Commissioner of the Municipal Corporation which was assailed before the learned

Single Judge. It is a reasoned order. It indicates as to why the petitioner's claim was not allowed by the Commissioner. We are of the view that the learned Single Judge was absolutely correct in not interfering in the matter. Although there is no law that the writ Court cannot go into disputed questions of fact, generally the writ Court will not do so as the nature of proceedings before the writ Court is not such as would enable convenient adjudication of disputed questions of fact. The petitioner/appellant is not remediless. He can approach the appropriate forum, in accordance with law. We see no reason to interfere with the order under appeal.

The appeal being FMA 804 of 2021 is, accordingly dismissed along with connected applications being I.A. CAN 1 of 2021 and I.A. CAN 2 of 2021 without any order as to costs.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance with all the necessary formalities.

(Kausik Chanda, J.)

(Arijit Banerjee, J.)