

**04.
07.10.2021.
Ct. No. 11.
F.B.**

**MAT 893 of 2021
with
IA No. CAN 1 of 2021**

(Via Video Conference)

**Shri Biplab Das
-Vs.-
Tamralipta Municipality & Ors.**

**Mr. Debabrata Saha Roy,
Mr. Indranath Mitra,
Mr. Pingal Bhattacharyya,
Mr. Subhankar Das,
Mr. Neil Basu
..... For the Appellant.**

**Mr. Alak Kumar Ghosh,
Mr. Gopal Chandra Das
..... For the Tamralipta
Municipality.**

**Mr. Saptangsu Basu,
Mr. Arindam Banerjee,
Mr. Nirmalya Dasgupta,
Mr. Rajesh Upadhyay
..... For the Respondent
No. 5.**

**Mr. Tarak Karan
..... For the State.**

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

Under challenge in this appeal is the order
impugned of the Hon'ble Single Bench dated 28th July,
2021 in the writ petition.

Mr. Saha Roy, Learned Counsel appearing for the appellant/the writ petitioner, submits that although the Hon'ble Single Bench directed exchange of affidavits between the parties connected to the challenge in the writ petition thrown to the legality of the construction impugned therein, it has been observed by the Hon'ble Single Bench that the report filed by the Respondents/the concerned Municipality holds the construction raised by the private respondents to be within the permissible rules.

Mr. Saha Roy points out that since the writ petition has been itself kept for ultimate consideration by the Hon'ble Single Bench upon exchange of affidavits, the observations as recorded in the order impugned dated 16th August, 2021 should be read as *prima facie*.

Mr. Basu, Learned Senior Counsel appearing for the respondent nos. 4 and 5, questions the *locus standi* of the appellant/the writ petitioner to maintain this appeal.

Having heard the parties and considering the materials placed, this Court finds no reason to intervene at this stage in the order impugned dated 16th August, 2021.

However, from the language of the order itself it transpires that the Hon'ble Single Bench has used the expression *qua* the report of the Respondents/Municipality in the first paragraph to the following effect:- "Today, the Tamralipta Municipality files a report *from which it appears*".

The Hon'ble Single Bench has also kept the point of *locus standi* open.

In the above view of the matter, it is needless to add that the observations of the Hon'ble Single Bench appear *prima facie* in nature. The matter therefore returns to the Hon'ble Single Bench to be considered finally on affidavits.

MAT 893 of 2021 and **IA No. CAN 1 of 2021** stand thus **disposed of**.

All parties to act in terms of the copy of the order downloaded from the official website of this Court.

Urgent photostat certified copies of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Kesang Doma Bhutia, J.)

(Subrata Talukdar, J.)