

20.
07-12-2021
debajyoti
(Ct. no.06)

MAT 1228 of 2021
with
IA NO:CAN/1/2021

Sri Debdas Ash & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Srijan Nayak,
Mr. Shovan Bandyopadhyay
... For the Appellants.

Mr. R. N. Chakraborty,
Mr. M. Ahmed,
Mrs. Amrita De
... For the writ petitioner.

The appellants undertake to cure the defect, as pointed out by the Additional Stamp Reporter in the report dated November 18, 2021.

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

The writ petitioner/respondent approached the learned Single Judge with the grievance that the private respondents in the writ petition (who are appellants herein) were making unauthorized construction, but the administration was taking no steps in spite of complaints.

The learned Single Judge disposed of the writ petition by directing that the “authority concerned” shall decide the issue of legality of the construction in question after giving opportunity of hearing to all concerned parties. The private respondents have come in appeal before us.

The short grievance of the appellants is that no time period has been specified within which the decision has to be taken by the authority. Further, although a hearing was given by the concerned Block Development Officer on November 25, 2021, no decision has been communicated to the appellants.

Mr. Chakraborty, learned advocate, appearing for the writ petitioner, points out with reference to Section 23(5) of the West Bengal Panchayat Act, 1973, that the Competent Authority to decide the issue is the Sub-Divisional Officer and not the Block Development Officer. The Sub-Divisional Officer could not have delegated the task of deciding the issue to the Block Development Officer.

According to us, Mr. Chakraborty's submission may have some substance.

We dispose of the appeal and the stay application by directing the concerned Sub-Divisional Officer to consider the issue and pass a reasoned order in accordance with law within a period of two weeks from the date of receipt of a copy of this order after giving opportunity of hearing to all the interested parties including the present appellants and the writ petitioner. The decision taken by the Sub-Divisional Officer shall be communicated to the parties within a week from the date of the decision.

We have not gone into the merits of the disputes between the parties. The Sub-Divisional Officer shall take a decision in accordance with law uninfluenced by anything stated in this order.

The order under appeal is modified to the above extent. The order of *status quo* passed by the learned Single Judge shall continue till the disposal of the matter by the Sub-Divisional Officer.

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.)