

17. 16.12.2021  
Ct. No.06  
Tanmoy

**M.A.T. 1275 of 2021  
With  
IA No: C.A.N. 1 of 2021**

**Ananda Gopal Maity  
-Versus-  
Sumita De Mallick & Ors.**

**(Through Video Conference)**

Mr. Bikash Ranjan Bhattacharya, Ld. Sr. Adv.,  
Mrs. Jhuma Chakraborty, Adv.,  
Mr. Aritra Ghosh, Adv.

...for the appellant.

Mr. Moloy Krishna De, Adv.,  
Mr. Srinath Singha Roy, Adv.

...for the State respondents.

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

The respondent no.1/writ petitioner approached the learned Single Judge by filing the writ petition praying for a direction upon the relevant Municipal authorities to enquire into her complaint and issue stop work notice against the appellant with regard to a construction at B/41, Burdge Town, in Ward No. 6, under the Midnapore Municipality. The writ petitioner also prayed for a further direction to the Municipality to demolish the said alleged illegal construction.

The writ petition was disposed of giving certain directions to the Municipality.

Mr. Bikash Ranjan Bhattacharya, learned senior advocate, appearing in support of the appeal, draws our attention to the complaint dated September 9, 2021, lodged by the respondent no.1 before the Officer-in-Charge of the Kotwali Police Station, Paschim Midnapore.

Mr. Bhattacharya submits that the complaint lodged by the respondent no.1 shows that her allegation revolves around installation of an electric transformer in the premises where the construction is being carried out by the appellant. Mr. Bhattacharya submits that such allegation cannot be the subject matter of an enquiry by the municipal authorities.

Mr. Bhattacharya further submits that in the garb of enquiring into the allegations made in the complaint dated September 9, 2021, the Municipality may take adverse steps against the appellant exceeding its jurisdiction.

The order impugned is clear and specific. The operative part of the said order is quoted below:

*“It is made clear that the municipality shall make an inspection in presence of the petitioner and the respondent nos. 9 and 10. A copy of the inspection report shall be supplied to the parties and thereafter a hearing should be given to all the parties. A reasoned order shall be passed and communicated to all concerned.*

*It is also made clear that enquiry, inspection and decision of the municipality shall be restricted to the allegations of construction in absence of a plan or in deviation of a plan and building rules.*

*The question of title, possession and encroachment etc. shall not be decided in the proceeding. If it is found that there has been any violation or deviation of the building rules or the plan, action shall be taken in accordance with law.*

*The entire exercise shall be completed within a period of twelve weeks from the date of communication of this order.”*

Since the order impugned has restricted the scope of enquiry by the Municipality as to the allegations of construction in absence of a sanctioned plan or in deviation of the sanctioned plan or the building rules, it is immaterial what the respondent no. 1 has stated in her complaint before the police.

The order impugned does not call for any interference and accordingly, the appeal being M.A.T. 1275 of 2021 and the connected application being IA No: C.A.N. 1 of 2021 are dismissed.

Let urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

**(Kausik Chanda, J.)**

**(Arijit Banerjee, J.)**