

February 16, 2022
Sl. No.5
Court No.1
SG/s.biswas

MAT 130 of 2022
With
CAN 1 of 2022

Pranab Kumar Chatterjee @Pranab Chatterjee
vs.
The State of West Bengal and others

(Through Video Conference)

Mr. Anindya Lahiri,
Mr. Samrat Dey Paul, Advocates

..for the appellant

Mr. Amitesh Banerjee, Sr. Standing Counsel
Mr. Suddhadev Adak, Advocate

..for the State

Mr. Debasish Chatterjee,
Ms. Kakali Chatterjee, Advocates

... for the respondent No.3

This appeal is directed against the interlocutory order of learned single Judge dated 04.02.2022 passed in WPA 2669 of 2021.

The submission of learned counsel for the appellant is that by this order, the appellant's right to file affidavit-in-opposition has been closed and that learned single Judge is required to decide the issue of maintainability of writ petition which has not been done.

Learned counsel for the State has referred to the stand of the State before learned single Judge recorded in the order dated 20.12.2021.

Learned counsel for the respondent No.3 (writ petitioner) has submitted that the right to file affidavit-in-opposition has not been closed and that the respondent No.3 is a senior citizen, aged about 73 years who had

succeeded, but yet the title deed has not been returned by the appellant and the present appeal has been filed based upon forged documents.

Having heard learned counsel for the parties and on perusal of the record it is noticed that the respondent No.3 has approached the writ court with the prayer to command the official respondents to ensure that the original deed is returned by the appellant.

Earlier, the appellant had filed the appeal being MAT 51 of 2022 against the order of learned single Judge dated 14.01.2022 issuing warrant of arrest against the appellant on account of non-appearance before the Court and in appeal before this Court on 27.01.2022 learned counsel for the appellant had given undertaking that he will appear before learned single judge on the next date of hearing, therefore this Court had set aside the order of issuance of warrant of arrest with certain directions. Thereafter the appellant had appeared before learned single judge on 04.02.2022.

The impugned order dated 04.02.2022 does not indicate that the right of the appellant to file the affidavit-in-opposition has been closed, though in that order some observations have been made in this regard. Hence, it will be open to learned counsel for the appellant to file affidavit-in-opposition before learned single Judge on the next date of hearing.

The impugned order dated 04.02.2022 also indicates that in that order no effective direction has been issued by the learned single Judge and the matter has been adjourned for the next date, therefore we are not inclined to interfere in the order. However, we give liberty to the appellant to raise all the legally permissible grounds before learned single Judge in accordance with law.

The appeal and the connected application are accordingly disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties on usual undertaking.

[Prakash Shrivastava, C.J.]

[Rajarshi Bharadwaj, J.]