

7.
25-02-2022
debajyoti
(Ct. no.06)

MAT 246 of 2022
with
IA NO:CAN/1/2022
with
CAN/2/2022

Jiarul Saha @ Jiarul Shah
Vs.
Hasen Sah & Anr.

Mr. Biswaroop Bhattacharjee,
Mr. Abhisek Addhya

... For the Appellant.

Mrs. Pampa Dey (Dhabal)

... For the Respondent No.1.

Mr. Soumik Ganguly

... For the Respondent No.2.

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

The appellant was not made a party in the writ petition. The appellant prays for leave to appeal against the interim order of the learned Single Judge dated February 10, 2022, passed in W.P.C.R.C. 64 of 2021.

We are of the view that the appellant has reasons to be aggrieved. Hence, we grant her leave to appeal.

The application being CAN 2 of 2022 is, thus, allowed.

One Hasen Sah filed a writ petition being WPA 1835 of 2021 (Hasen Sah Vs. The State of West Bengal

& Ors.) before this Court alleging unauthorized construction without a sanctioned plan on the relevant plot at the behest of Jiarul Saha @ Jiarul Shah.

By an order dated February 26, 2021, the writ petition was disposed of with the following directions:

“ The writ petition is accordingly disposed of by directing the respondent no.6 to consider and dispose of the representation made by the petitioner, strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties, including the petitioner, within a period of twelve weeks from the date of communication of a copy of this order. The said respondent shall pass a reasoned order and communicate the same to all the necessary parties, including the petitioner, immediately thereafter. ”

Following the said order passed by the learned Single Judge, a hearing was given by the Pradhan of the concerned Panchayat and a demolition order was issued.

A contempt application was filed by Hasen Sah for alleged violation of the said order dated February 26, 2021. In the said contempt application, Jiarul was not made a party.

When the contempt application was taken up on February 10, 2022, the learned Single Judge, *inter alia*, directed as follows:

“ In view of the above, the Officer-in-Charge, Joypur Police Station under the supervision of the concerned Superintendent of Police shall render all necessary assistance to the Pradhan of the Gram Panchayat for dealing with the unauthorized construction by

demolishing the same within a fortnight from date.

The alleged contemnor shall file a fresh report of compliance before this Court on 3rd March, 2022. ”

The present appeal has been preferred challenging the said order dated February 10, 2022, by Jiarul with an application for leave to appeal since he was not a party to the said contempt proceedings.

Before us, Mr. Bhattacharjee, learned advocate, appearing for Jiarul Shah, and Mrs. Pampa Dey (Dhabal), learned advocate, appearing for Hasen Sah (writ petitioner/respondent), jointly submitted that the disputes between them have been amicably settled and, therefore, there is no necessity to proceed with the contempt proceedings.

It appears that there is an allegation that the land in question whereon the impugned construction has been raised is a ‘Sali’ land and without converting the nature and character of the said land, the construction has been raised.

We cannot approve such an alleged settlement by and between Jiarul and Hasen and interfere with the contempt proceedings on that ground. We, however, feel that Jiarul should be at liberty to appear before the learned Single Judge in the contempt proceedings and make submissions, as he deems fit and proper.

With the above observations, MAT 246 of 2022 and CAN 1 of 2022 are disposed of.

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 with all the necessary formalities.

(Kausik Chanda, J.)

(Arijit Banerjee, J.)