12.
11-04-2022
debajyoti
**(Ct. no.06)**

**MAT 320 of 2021**
**+**
**IA NO:CAN/1/2021**

**Tapan Kumar Das**
**Vs.**
**Anima Guha @ Chatterjee & Ors.**

Mr. Uttiya Ray,
Mr. Arnab Mandal
... For the Appellant.

Mr. Debjit Mukherjee,
Ms. Rupsha Chakraborty
... For the State.

Mr. Tapash K. Bhattacharya,
Mr. Aviroop Bhattacharya
... For Katwa Municipality.

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

This appeal is preferred against an order dated February 22, 2021 passed in WPA 5272 of 2021, whereby the learned Single Judge stayed the impugned order of demolition dated February 18, 2021 till March 26, 2021. We are told that subsequently, such stay order stands extended till May 18, 2022.

This matter has a chequered history. However, briefly stated, the present appellant, who is a private respondent in the present writ petition, filed a writ application complaining of unauthorized construction by the present writ petitioner. On such writ application, an order was passed directing the municipal authorities to consider the writ petitioner's case and take an appropriate action. Pursuant to such order, the municipality heard all concerned parties and found that unauthorized construction has

been made. Accordingly, demolition order was passed. Challenging such demolition order, the present writ petitioner approached this Court.

This Court granted seven day's time to the present writ petitioner to prefer a statutory appeal with the rider that if such appeal was not filed within the time period granted, the demolition order would be implemented. The fact remains that the statutory appeal was not filed within the aforesaid time period granted by the learned Single Judge. However, the demolition order was not implemented for one reason or the other. Several other proceedings were initiated at the instance of the parties.

Finally, the present writ petition has been filed challenging the demolition order dated February 18, 2021 and an interim order has been passed therein as noted above. Learned advocate for the appellant says that the challenge was actually to the notice for execution of the demolition order.

Be that as it may, we are told that the present writ petitioner/private respondent has filed a statutory appeal. Learned advocate for the appellant says that such appeal is hopelessly time-barred. The writ petition is pending. We are of the view that since the statutory appeal has been filed, the same should be taken to its logical conclusion. The present appellant is a party to that appeal. The present appellant shall be at liberty to urge all points available to him in law before the appellate authority, including the point of maintainability of the appeal. It is for the appellate authority to decide whether the nature of the construction is such that it must be demolished or whether the law permits regularization of such

unauthorized construction. We express no opinion on the merits at all. The appellate authority shall decide the appeal in accordance with law after observing the principles of natural justice. We further make it clear that no unnecessary adjournment will be granted by the appellate authority and the appeal must be disposed of within a period of eight weeks from the date of communication of this order to the appellate authority. The appellate authority shall not permit any of the parties to drag the proceedings on one pretext or the other and shall expeditiously dispose of the appeal within the time period indicated above.

The appeal and the connected application are disposed of.

In view of this order, nothing remains to be decided in the writ petition. The order challenged in the writ petition shall abide by the result of the statutory appeal. The writ petition being WPA 5272 of 2021 is also 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.

**(Krishna Rao, J.)** **(Arijit Banerjee, J.)**