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01-07-2022
debajyoti
(Ct. no.06)

MAT 608 of 2022
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IA NO:CAN/1/2022

Asit Bag & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Mahammad Mahmud,
Mr. Mahfuzus Salam Mollah
... For the Appellants.

Mr. Ziaul Islam,
Mr. Abdus Salam
... For the State.

Mr. Keshab Chandra Das
... For Respondent Nos.9 & 10.

Affidavit-of-Service filed in Court be taken on record.

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

The appellants approached the learned Single Judge complaining of inaction on the part of the respondent authorities. Their case was that the private respondents had made or were in the process of making unauthorized construction on land jointly owned by the writ petitioners and the private respondents. However, the respondent authorities, in spite of receiving complaints from the writ petitioners, were not taking any steps in the matter.

The learned Judge dismissed the writ petition observing that there appears to be a “Barga” dispute between the parties and, therefore, the Single Judge of the High Court did not have jurisdiction to entertain the writ petition. Being aggrieved, the writ petitioners are before us by way of this appeal.

We have heard learned counsel for the parties. There does not appear to be any “Barga” dispute. Even if there is any such dispute between the parties, the writ petitioners are not seeking adjudication of such dispute before this Court. The only case of the writ petitioners/appellants is that the concerned authorities should consider the complaint of the writ petitioners that the private respondents are making unauthorized construction.

The private respondents say that they have made the construction after obtaining permission from the competent authority and, therefore, there is no question of any illegal or unauthorized construction.

We are not inclined to enter into the merits of the dispute. We grant liberty to the appellants to make a comprehensive representation to the concerned Block Development Officer, being the respondent no.5 herein, within a fortnight from date. If such representation is made within the time period indicated, the respondent no.5 shall dispose of the same in accordance with law by a reasoned order within six weeks from the receipt of the representation, after giving an opportunity of hearing to all concerned parties, including the appellants and the private respondents herein. The decision so taken shall be communicated to the parties within a week from the date of the decision. Needless to say, if the respondent no.5 finds merit in the complaint of the appellants, he shall take appropriate steps in accordance with law.

The order under appeal is set aside. The appeal and the connected application are, accordingly, disposed of.

Affidavits not having been called for, the allegations in the stay petition shall be deemed not to have been admitted by the respondents.

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.

(Rai Chattopadhyay, J.) (Arijit Banerjee, J.)