

D/L
Item No. 13
24.06.2022
KOLE

MAT 724 of 2022
With
IA No. CAN 1 of 2022
Abhishek Mukherjee
-Vs.-
The State of West Bengal & Ors.

Mr. Sandip Ghosh,
Mr. P. Sarkar,

...for the appellant.

Mr. Rejaul Hossain,

...for the State.

Mr. Debanshu Ghorai,

...for the respondent no. 5.

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

The writ petitioner/appellant had approached the learned Single Judge by filing WPA 263 of 2021 with the grievance that although complaint had been lodged with the North Barrackpore Municipality to the effect that the private respondent had illegally constructed a lavatory and had installed an air conditioner machine in the premises next to the writ petitioner's premises, the Municipality had not taken any steps.

Before the learned Judge the Municipality as well as the private respondent submitted that on oral direction given by the Municipality, the private respondent had demolished the lavatory and had removed the air conditioner. The learned Judge nonetheless, called for a report from the Municipality. An inspection report was filed which corroborated the aforesaid stand. Accordingly, the learned Judge disposed of the writ petition.

The writ petitioner is aggrieved by the fact that although the inspection report which was filed before the learned Judge (page 62 of the stay application, Annexure 'P6') records that the building of Mr. Kuntal Roy, son of Kalipada Roy, who is the present private respondent, has no sanctioned building plan from the Municipal Authority, no direction for demolition of the unsanctioned building was given by the learned Single Judge.

We are unable to entertain this grievance of the appellant. Kuntal Roy was not a party in the writ petition. His father may have been a party, that would not justify passing of an order against the son without giving him appropriate opportunity of hearing. Hence, the learned Judge committed no error in not passing any direction against Kuntal Roy. If the appellant has any grievance against Kuntal Roy, he will be at liberty to take appropriate steps against him in accordance with law before the appropriate forum.

We see no reason to interfere with the order appealed against. Since we have not called for affidavits, the allegations made in the stay application are deemed not to be admitted.

The appeal and the connected application are accordingly disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

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