

29. 17.06.2022
Ct. No.6
Tanmoy

M.A.T. 884 of 2022

**Sri Pankaj Ranjan Maity & Ors.
-Versus-
Sri Haripada Maiti & Ors.**

**With
IA No: C.A.N. 1 of 2022**

Mr. Sabyasachi Mondal, Adv.,
Mr. Subir Sabud, Adv.

...for the appellants.

Mr. Dilip Kumar Maity, Adv.,
Ms. Pinki Saha, Adv.

...for the private respondent.

Mr. Gopal Ch. Das, Adv.

...for the respondent nos. 3 to 8.

Affidavit of service filed in Court today be kept with the records.

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

This appeal is directed against an order dated June 7, 2022 whereby W.P.A. 6879 of 2022 was disposed of.

The operative portion of the said order reads as follows:

“Accordingly, the Tamralipta Municipality is directed to take immediate steps for giving the water supply connection to the premises of the petitioner through the same common passage from where water supply has been effected to the private respondents i.e. the co-owners of the said premises. Steps shall

be taken in the matter by the Municipality positively within a period of two weeks from the date of communication of this order.

The date of installing the pipeline shall be intimated in advance to the parties.

The Officer-in-Charge, Tamluk Police Station is directed to depute a competent person at the site on the date of effecting the water supply connection to ensure that there is no breach of peace in the locale.

The private respondents i.e. the co-owners are restrained from creating any sort of disturbance or interference at the time of effecting the water supply connection in the premises of the petitioner in the manner as indicated hereinabove.”

The writ petitioner, who is the private respondent before us, approached the learned Single Judge with a grievance that the Tamralipta Municipality was unable to give water supply connection to him due to unlawful resistance put up by his neighbours who are the present appellants. The learned Judge, did not call for affidavits and disposed of the writ petition by passing the order impugned. Being aggrieved, the private respondents in the writ petition are before us by way of this appeal.

It is submitted on behalf of the appellants that there are serious disputes between the parties. The case sought to be made out by the writ petitioner that there is a common passage and water supply can be effected through such passage is not so simple. The learned Judge ought to have called for affidavits so that the factual disputes could be projected by the private respondents in the writ petition.

Mr. Das, learned Advocate appearing for the Municipality, says that the Municipality is also aggrieved

by the order impugned in this appeal. It is practically not possible to carry out the order. He also says that affidavits should have been allowed to be exchanged before the writ petition was disposed of.

Having heard learned Counsel for the parties, we feel that there may be serious disputes between the writ petitioner and the appellants, which may require consideration before the writ petition is disposed of. For that purpose, affidavits should be exchanged before the learned Single Judge. Let affidavit-in-opposition be filed within a fortnight from date; affidavit-in-reply thereto, if any be filed within a week thereafter. The parties will be at liberty to approach the learned Single Judge praying for an early hearing to the extent the business of the Court may permit after completion of affidavits. We request the learned Single Judge to decide the writ petition afresh upon exchange of affidavits.

The order under appeal is set aside.

The appeal being M.A.T. 884 of 2022 and the connected application being IA No: C.A.N. 1 of 2022 are disposed of.

Let urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with all necessary formalities.

(Rai Chattopadhyay, J.)

(Arijit Banerjee, J.)