

10.
08-02-2022
debajyoti
(Ct. no.06)

MAT 816 of 2021
with
IA NO:CAN/1/2021

Bidhannagar Municipal Corporation & Ors.
Vs.
Samir Bhattacharya & Ors.

Mr. Debabrata Saha Roy,
Mr. Arka Kumar Nag,
Mr. Subhankar Das

... For the Appellants.

Mr. Srijib Chakraborty,
Mr. Dyutimoy Paul

... For Respondent No.1.

Mr. Rajarshi Basu,
Mr. S. T. Mina

... For the State.

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 writ petitioner/respondent no.1 approached the learned Single Judge essentially for implementation of an order dated January 06, 2015 passed in M.P. Case No.346 of 2014 by the Sub Divisional Magistrate and Sub Divisional Officer, Bidhannagar, North 24-Parganas, whereby the Executive Officer of the Bidhannagar Municipality was directed to make necessary arrangement for taking possession of public land located in front and side of the permanent booth of the writ petitioner after evicting all unauthorized occupants from such public land.

The learned Judge noted that the said order of the Sub Divisional Magistrate was carried in appeal by the alleged encroachers. Such appeal was disposed of on contest by the Additional Sessions Judge, 6th Court, Barasat, North 24-Parganas, by a judgment dated March 17, 2015 passed in Criminal Revision No.08 of 2015. The criminal revisional application was dismissed and the order of the Sub Divisional Magistrate was upheld. The learned Judge observed that the said order having attained finality, the same must be executed by the erstwhile Bidhannagar Municipality, which is presently the Bidhannagar Municipal Corporation. Direction was given by the learned Judge for immediate implementation of the Sub Divisional Magistrate's order dated January 06, 2015.

Being aggrieved, the Municipal Corporation is before us by way of this appeal.

Appearing for the appellants, Mr. Saha Roy, learned counsel, submits that the writ petitioner has no *locus standi* to maintain the writ petition. He has not renewed his license since 2015 and he has no right to occupy the area that he is in occupation of. It is very difficult to implement the order of the Sub Divisional Magistrate because of resistance from local people.

We are not impressed with the submission made on behalf of the Corporation. The order of the Sub Divisional Magistrate has attained finality. The same must be implemented. The learned Single Judge has not committed any error in directing implementation of the said order. We, therefore, see no reason to interfere with the order under appeal.

Insofar as the status of the writ petitioner is concerned, according to the Municipal Corporation, he is a trespasser. Unless he renews the license with the Municipal Corporation, his occupation will continue to be illegal. In this appeal, we are not going into the nature of the possession of the writ petitioner of the premises which he occupies. However, in the event the Municipal Corporation is of the view that the writ petitioner is in unauthorized or illegal occupation of the premises, which is owned by the Corporation, the Corporation shall be at liberty to take appropriate steps against him and this order shall in no manner stand in the way thereof.

We put on record that Mr. Chakraborty, learned advocate, appearing for the writ petitioner, has seriously disputed the submission made on behalf of the Municipal Corporation.

The appeal and the connected application are, accordingly, 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 of necessary formalities.

(Kausik Chanda, J.) (Arijit Banerjee, J.)