

D/L
Item No. 25
02.08.2022
KOLE

**MAT 1034 of 2022
With
IA No. CAN 1 of 2022**

**Sk. Habibur Rahaman
-Vs.-
The State of West Bengal & Ors.**

*Mr. Biswaroop Bhattacharyya,
Mr. S. Seth,*

...for the appellant.

*Mr. Monjali Chowdhury,
Mr. M Sinha,*

...for the respondent nos. 2 to 4.

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

It appears from the affidavit of service filed in court today that the private respondents have been served. However, they are not represented.

This appeal is directed against a judgment and order dated June 21, 2022, whereby WPA 7502 of 2022, filed by the appellant herein, was disposed of with the following observations:-

“After hearing the submissions made on behalf of the parties it appears that there are several disputed questions of facts involved in the instant writ petition which cannot be adjudicated by the writ court.

In view of the above, the parties are relegated before the appropriate forum for redressal of their grievances, if so advised.”

The appellant had approached the learned Single Judge with the grievance that the private respondents were making unauthorized construction without obtaining

sanction of building plan from the concerned Gram Panchayat.

Before the learned Single Judge, the private respondents relied on a permission allegedly granted by the Maju Gram Panchayat in favour of the respondent no. 10 in the writ petition, who is the respondent no. 10 in the appeal as well. The writ petitioner contended that the private respondents had made the impugned construction prior to obtaining the permission from the Gram Panchayat. The private respondents disputed such contention and argued that the writ petitioner's complaint was a counter-blast to a complaint that had been made earlier by the private respondents alleging unauthorized construction by the writ petitioner.

Before us, it has been stated by the parties that after the order under appeal was passed, an order dated July 15, 2022 has been passed by a learned Single Judge in WPA 15296 of 2022, filed by the private respondents herein, challenging revocation of permission granted in their favour by the Pradhan, Maju Gram Panchayat, for making construction on Dag Nos. 154 and 155 of Marghurali Mouza. The said writ petition was disposed of by the said order dated July 15, 2022 by granting liberty to the writ petitioners therein who are the private respondents before us, to approach the Pradhan, Maju Gram Panchayat with a representation which has to be decided in accordance with law.

We are of the view that the Pradhan, Maju Gram Panchayat would be the appropriate authority to decide the grievance of the present writ petitioner also. Accordingly, we grant liberty to the writ petitioner to make a representation to the Pradhan of the Maju Gram Panchayat, who is the respondent no. 7 before us, within three weeks from date. If such representation is made within the time indicated, the respondent no. 7 shall dispose of the same in accordance with law by a reasoned order within a period of two months from the date of receipt of such representation, after giving an opportunity of hearing to the writ petitioner and the private respondents herein as also to any other concerned party. 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. 7 finds merit in the complaint made by the present appellant, appropriate remedial steps will be taken by him/her. We have not gone into the merits of the respective cases of the parties. The respondent no. 7 shall take an informed decision in accordance with law.

Since we have not called for affidavits, the allegations made in the stay application are deemed not to be admitted.

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.)