

12. 08.09.2022
Ct. No.6
Tanmoy

M.A.T. 1125 of 2022

**Nirapada Maity
-Versus-
The State of West Bengal & Ors.**

**With
IA No: C.A.N. 1 of 2022
With
IA No: C.A.N. 2 of 2022**

Mr. Soumak Bera, Adv.

...for the appellant.

Ms. Sipra Majumdar, Adv.,
Ms. Prativa Ghatak, Adv.

...for the State.

Mr. Dilip Kumar Samanta, Adv.

...for the respondent no.7.

In Re: IA No: C.A.N. 1 of 2022

This is an application for condonation of delay of fifty (50) days in filing the appeal, as noted by the Stamp Reporter. Causes shown being sufficient, the delay is condoned. The application being IA No: C.A.N. 1 of 2022 in M.A.T. 1125 of 2022 is disposed of.

**In Re: M.A.T. 1125 of 2022
With
IA No: C.A.N. 2 of 2022**

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

The appellant was the private respondent in the writ petition. The writ petitioner had approached the learned Single Judge contending that the private respondent was making illegal construction by filling up a 'doba' and also without obtaining any sanctioned plan from the concerned *Zilla Parishad*. The writ petitioner said that she had made a representation to the *Pradhan* of the concerned *Gram Panchayat* on January 7, 2021 but the same had not been considered.

The appellant/private respondent denied that he had made any construction over the said water body.

Since the writ petitioner's representation was pending before the *Pradhan* of the concerned *Gram Panchayat*, the learned Judge, without entering into the merits of the disputes between the parties, disposed of the writ petition by observing as follows:-

"The writ petition is accordingly disposed of by directing the respondent no. 5, being the Pradhan, No. 7 Kheput Dakshinbar Gram Panchayat herein to consider and dispose of the representation made by the petitioner strictly in accordance with law, at the earliest, but positively within a period of twelve weeks from the date of communication of a copy of this order.

In the event the aforesaid respondent is of the considered opinion that the construction has been made either in violation of the plan sanctioned or devoid the sanction plan, then necessary steps shall be taken to deal with such unauthorized construction, in accordance with law.

It is made clear that this Court has not entered into the merits of the claim made by the petitioner and all points are

left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioner.

The aforesaid respondent shall restrict the consideration of the representation with regard to unauthorized construction only and not enter into or decide any private dispute of the parties regarding right, title and interest in respect of the aforesaid land.

The petitioner is directed to forward a copy of the representation dated 7th January, 2021 to the aforesaid respondent at the time of communicating the order of the Court.”

Learned Advocate for the appellant says that the *Pradhan* of the concerned *Gram Panchayat*, acting on the basis of the learned Single Judge’s order, has disposed of the representation and has passed an order issuing certain directions to the appellant.

Hence, the order impugned has been worked out. This appeal has become infructuous. However, if the appellant is aggrieved by the order of the *Pradhan* of the concerned *Panchayat*, he will be at liberty to challenge the same before the appropriate forum, in accordance with law.

Learned Advocate prays for liberty to produce certain documents in support of his client’s case before the concerned Sub-Divisional Officer. Such a direction would be beyond the scope of this appeal. However, we are sure that if any document is produced before the concerned Sub-Divisional Officer and the same is relevant, the Officer will consider the same.

Since we have not called for affidavits, the allegations made in the stay petition shall be deemed not to have been admitted by the respondents.

The appeal being M.A.T. 1125 of 2022 and the connected application being IA No: C.A.N. 2 of 2022 stand 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.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)