

36.
07-02-2022
debajyoti
(Ct. no.06)

MAT 1154 of 2021
with
IA NO:CAN/1/2022

Liakat Ali & Ors.
Vs.
The State of West Bengal & Ors.

Mr. Partha Sarathi Bhattacharya,
Mr. Sudip Sarkar,
Mr. Raju Bhattacharya
... For the Appellants.

Mr. Jahar Lal De,
Mr. Shamim ul Bari
... For the State.

Mr. Kamalesh Bhattacharyya,
Mr. Aninda Bhattacharyya
... For Respondent No.9.

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 petitioners approached the learned Single Judge challenging an order dated May 30, 2019 passed by the District Land and Land Reforms officer, Murshidabad, wherein, *inter alia*, a claim of Rs.98,66,324/- has been raised on the writ petitioners on account of unpaid lease rent in respect of a government fishery. The learned Single Judge passed an order on August 25, 2021, which is to the following effect:

“ Heard the petitioner.

The State is represented and submits that there are huge outstanding

liabilities payable by the petitioners on account of State dues.

Mr. Bhattacharjee appears for the petitioners and is directed to take instructions as to how and when the petitioners are in a position to make such payment.

Let this matter appear on 13th September, 2021. ”

Being aggrieved, the writ petitioners are before us by way of this appeal. Mr. Bhattacharya, learned Senior Counsel, appearing for the writ petitioners/appellants, submits that at the initial stage and without the writ petitioners getting opportunity of placing their entire case before the learned Judge, a finding has been arrived at that huge sums are due from the writ petitioners to the State.

Mr. De, learned counsel, appearing for the State, says that this appeal is not maintainable. Nothing has been decided by the learned Single Judge. His Lordship only requested learned advocate for the petitioners to obtain instructions in the matter.

We are of the view that the apprehension of the appellants is misplaced. The learned Judge has not decided anything. All points are left open. The appellants will be at liberty to argue all points before the learned Single Judge. The learned Judge will decide the matter on merits in accordance with law.

Mr. Bhattacharya, learned Senior Advocate, says that after filing of the writ petition and after the matter was last taken up by the learned Single Judge, a notice dated December 17, 2021 has been issued by the Additional District Magistrate and District Land and Land Reforms Officer, Murshidabad, which is a

demand notice for arrear lease rent and interest accrued thereon in respect of the concerned government fishery and a threat to proceed under the provisions of Bengal Public Demand Recovery Act, 1913.

The writ petitioners will be at liberty to bring on record the said notice before the learned Single Judge.

We see no reason to interfere with the order under appeal. The appeal and the connected application are, accordingly, disposed of. However, we make it clear that we have not gone into the merits of the case at all. The learned Judge is requested to dispose of the writ petition without being influenced by any observations made in this order.

Affidavits not having been called for, the allegations in the stay application shall be deemed not to have been admitted by the respondents.

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.)