

22.
22-08-2022
debajyoti
(Ct. no.06)

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
Appellate Side**

**MAT 1195 of 2022
+
IA NO:CAN/1/2022**

**Saddam Sk
Vs.
Jakir Hasan & Ors.**

Mr. Robiul Islam,
Ms. Pramita Banerjee,
Mr. S. A. Munshi,
Ms. Firoja Khatoon
... For the Appellant.

Mr. Partho Pratim Roy,
Mr. Anirban Das,
Mrs. Poulami Chakraborty
... For Respondent No.1.

Mr. Nilotpall Chatterjee,
Ms. Amrita Panja Moulik
... For the State.

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

A judgment and order dated July 13, 2022, whereby WPA 12016 of 2022 was disposed of, is the subject matter of challenge in this appeal.

The appellant was the private respondent before the learned Single Judge. The matter pertains to a public auction conducted by the Murshidabad Jiaganj Panchayat Samity in respect of Dangapara Paharpur Ferry Ghat.

The writ petitioner had approached the learned Single Judge with the prayer that his representations made on June 14, 2022 and June 16, 2022, to the appropriate authority, should be disposed of in accordance with law. The operative portion of the order passed by the learned Single Judge reads as follows:

“ In view of the above, the instant writ petition is disposed of by directing the Executive Officer, Murshidabad Jiaganj Panchayat Samity to consider the representation filed by the petitioner on 14th June, 2022 and 16th June, 2022 keeping in mind that any participant who is agreeable to pay an amount more than the tender price quoted by the second highest bidder at the time of open bidding on 14th June, 2022, may be considered as the successful tenderer.

The decision shall be taken by the Executive Officer after giving reasonable opportunity of hearing to all the necessary parties at the earliest, but positively within a period of ten days from the date of communication of this order. The Executive Officer shall pass a reasoned order and communicate the same to all the parties immediately thereafter. ”

The appellant before us, who was the private respondent before the learned Single Judge, says that he did not have sufficient notice of the proceedings, and, therefore, could not be represented. This is strongly disputed by learned advocate for the writ petitioner. Further, it appears from the order impugned that Affidavit-of-Service was filed in court and the learned Judge was satisfied with service on the respondents.

We are not inclined to interfere with the order under appeal. We are further told that the order has been carried out. However, if the appellant is entitled in law to approach the learned Single Judge with an appropriate

application, as he may be advised, he shall be at liberty to do so and if he can explain his absence before the learned Single Judge sufficiently, the learned judge may consider passing appropriate orders in accordance with law. The appellant says that extremely relevant documents were not produced before the learned Single Judge with regard to the settlement in question.

This order will not stand in the way of the appropriate authority to take steps in accordance with law nor will be construed as staying the operation of the order impugned to any extent.

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.

(Rai Chattopadhyay, J.) (Arijit Banerjee, J.)