

13 03.02.2023
rkd Ct.15

W.P.A. 20221 of 2022
(IA NO: CAN 1/2023)

Tapan Roy (Paul)

-vs-

The State of West Bengal & Ors.

Mr. Satrajit Sinha Roy

....for the petitioner.

Mr. Debashis Banerjee

...for the respondent nos. 11 to 17.

Mr. Barin Banerjee

Ms. Mansisha Nath

....for the KMC.

The application being CAN 1/2023 is taken up for consideration when Mr. Roy, learned advocate appears for the applicant and submits that the present application may be entertained to the extent of adding respondent no.18 as indicated in the cause title of this application as additional respondent in the writ petition and to demolish the unauthorized construction made at the second floor of the premises, holding No.5/1C, Hem Dey Lane, Kolkata-700050.

Mr. Debashis Banerjee, leaned advocate representing the private respondents and Mr. Barin Banerjee, learned advocate representing the KMC have jointly opposed the prayer of the applicant on the score that the connected writ petition being

WPA 20221 of 2022 was dismissed by this Court on passing order dated 29th November, 2022 on merit. Therefore after dismissal of the connected writ petition the application in its present form is not maintainable.

This Court has heard the learned advocates representing the applicant as well as private respondents and the KMC.

In the application which is being considered today following prayer is couched:

“In the above facts and circumstances your petitioner prays that Your Lordship shall graciously be pleased to pass an order adding the respondent No.18 as party in the present writ petition being WPA 20221 of 2022 (Tapan Roy(Paul) Vs The state of West Bengal & Ors).

AND

Pass an order directing the respondent no. 3, 4, 5, 6, 7, 8, 9 and 10 to demolish the unauthorized construction in the second floor of the building in the premises No.5/ 1C Hem Dey Lane, Kolkata-700050.

AND

Pass such other and/or further order(s)/direction(s) as may deem

fit and proper.”

Having considered the nature of the prayer couched in this application, this Court finds there is no scope of entertaining the present application in view of dismissal of the writ petition by this Court vide order dated 29th November, 2022.

In the writ petition petitioner made a prayer for demolition of the unauthorized construction erected by the private respondents at the second floor of the aforementioned premises.

On perusal of the averments made in the writ petition and the documents annexed thereto and in considering the submissions made by the learned advocates representing the parties at the time of consideration of the said writ petition it was found by this Court that apart from demand justice no specific complaint was lodged by the petitioner.

On going through the demand justice made by the learned advocate for the petitioner it was found that nature and extent of unauthorized construction was not properly narrated in the demand justice which led this Court to dismiss the writ petition upon granting leave to the petitioner/applicant to make formal complaint

before the concerned authority of Kolkata Municipal Corporation and it was also recorded in the said order that in the event the complaint is lodged by the petitioner/applicant within a particular time the decision in accordance with law would be taken subsequently within a specified time.

Since the present application has been taken out in connection with a writ petition which was dismissed vide order dated 29th November, 2022 on merit the same is not maintainable.

However, it has been submitted by the learned advocate for the applicant that pursuant to the leave granted by this Court a formal complaint has been lodged by the applicant before the concerned authority of the Kolkata Municipal Corporation, if the same is lodged within the time specified in the order, this Court expresses hope and trust that the same will be disposed of by the concerned authority of Kolkata Municipal Corporation shortly.

Accordingly, the application being CAN 1/2023 stands dismissed.

However, there shall be no order as to

costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned Advocates for the parties on the usual undertakings.

(Saugata Bhattacharyya, J.)