

16. 16.06.2022
Ct. No.6
Tanmoy

F.M.A. 499 of 2021
(M.A.T. 1419 of 2019)

Khardah Municipality & Anr.
-Versus-
Mrinal Debnath & Ors.

With
IA No: C.A.N. 1 of 2019 (Old No: C.A.N. 10168 of 2019)

Mr. Amal Baran Chatterjee, Ld. Sr. Adv.,
Mr. Bikash Kumar Chattopadhyay, Adv.,
Mr. Soumyojit Bhatta, Adv.

...for the appellants.

Mr. Mainak Ganguly, Adv.

...for the writ petitioner/
respondent.

Mr. Pantu Deb Roy, Ld. A.G.P.,
Mr. Anand Farmania, Adv.

...for the State respondents.

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

This appeal is preferred against an *interim* order dated October 3, 2018, passed in W.P. 17844 (W) of 2018.

The writ petitioner says that he had purchased a plot of land in 2013 under Khardah Municipality. In 2015, he applied for sanction of a Building Plan as he proposed to construct a house on the land in question. According to the Municipality, no sanction was granted. The writ petitioner says that suddenly the Municipality took

forcible possession of the land in question and started digging up the land. When the writ petitioner enquired, he was told that apparently, the land had once been a water body, which was illegally filled up and the Municipality was taking steps for restoring the pond to its original condition.

At this juncture, the writ petitioner approached the learned Single Judge. The learned Judge called for a report from the concerned Block Land and Land Reforms Officer (BL&LRO). The learned Judge found that the report was to the effect that the lands in question are not water bodies. Accordingly, the learned Judge passed the impugned order restraining the Municipality from taking further steps with regard to the concerned land. Being aggrieved the Municipality is before us by way of this appeal.

We have heard learned Counsel for the parties. The *interim* order has continued for close to four years. Direction for exchange of affidavits was given in the impugned *interim* order. We are told that affidavits have not yet been exchanged.

The Municipality says that there is another report of the BL&LRO, which says that the land in question was originally a water body. All these questions, according to us, should be thrashed out before the learned Single Judge upon exchange of affidavits. We are not inclined to

interfere with the *interim* order, which was passed quite some time ago.

Let affidavit-in-opposition to the writ petition be filed by the respondents in the writ petition within four weeks from date; reply thereto, if any, be filed within two weeks thereafter.

The parties will be at liberty to mention the matter before the learned Single Judge having determination praying for early hearing of the matter to the extent the business of the Court may permit.

We have not gone into the merits of the case at all. However, we make it clear that the writ petitioner/respondent no.1 shall not make any construction on the land in question till the disposal of the writ petition.

The appeal being F.M.A. 499 of 2021 and the connected application being IA No: C.A.N. 1 of 2019 (Old No: C.A.N. 10168 of 2019) are accordingly 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.

(Rai Chattopadhyay, J.)

(Arijit Banerjee, J.)