

22.06.2022
Item No. 44
Court No.32
Avijit Mitra

**FMA 1013 of 2021
with
IA No. CAN 1 of 2019 (Old CAN 10173 of 2019)**

**Iunuch Ali Laskar
Versus
The State of West Bengal & ors.**

Mr. Biswaroop Biswas,
Mr. Gora Chand Samanta
...for the appellant

Mr. Raja Saha,
Ms. Ranusri Chanda
....for the State
Mr. Gazi Faruque Hossain

....for the respondent no.8

The present appeal has been preferred against the order dated 21st August, 2019 passed in W.P. No. 15318 (W) of 2019.

Mr. Biswas, learned advocate appearing for the appellant/writ petitioner submits that without considering the arguments, as advanced on behalf of the appellant, the writ petition was abruptly disposed of.

Drawing our attention to the documents annexed to the writ petition and the stay application, Mr. Biswas submits that the appellant is the owner of 14 decimals of the land, as detailed in paragraph 2 of the writ petition. On the basis of such ownership, the appellant took steps towards construction of a building on the said land. He

applied for building plan approval and sanction before the competent authority being the concerned Panchayat and such plan was duly sanctioned. However, the private respondent no.8 raised objection and forcibly prevented him from raising such construction. The appellant, accordingly, sought for police assistance but in vain. Aggrieved thereby, he approached the writ Court.

He argues that the learned Judge ought to have issued the directions, as prayed for, upon the police authorities as they failed to discharge their statutory obligations.

Mr. Hossain, learned advocate appearing for the respondent no.8, however, disputes the contention of the appellant and submits that considering the nature of the dispute between the parties, the learned Single Judge rightly refused to issue any direction upon the police authorities.

He further submits that the said respondent no.8 owns a portion of the land, as detailed in paragraph 2 of the writ petition. The appellant illegally sought to raise construction and such act was challenged by filing a title suit being T.S. 473 of 2019. In the title suit, the learned Court below has passed an *interim* order restraining the appellant from making any construction over the suit property and the parties have been directed to maintain *status quo* as regards the nature and respective physical possession till 27th June, 2022. Let the information slip,

as filed, be kept on record. A copy of the same has been handed over to Mr. Biswas in Court today.

Heard learned advocates appearing for the respective parties and considered the materials on record.

Indisputably, a title suit is pending between the parties pertaining to the concerned property. In the said suit there is a subsisting *interim* order. The writ Court cannot take upon itself an investigative mantle to decide disputed questions of fact and as the dispute among the parties was found to be civil in nature, the learned Single Judge did not interfere and we do not find any infirmity in the said order and as such no interference is called for in the present appeal.

In view thereof, the appeal and the connected application are dismissed.

However, such dismissal of the present appeal shall not prevent the appellant from taking appropriate steps in the Title Suit No.473 of 2019.

There shall, however, 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.

(Raja Basu Chowdhury, J.) (Tapabrata Chakraborty, J.)