

02.12.2022
Item No. 5.
Court No.6.
AB

**M.A.T. 1547 of 2022
With
I A CAN 1 of 2022**

**Ashad Ali Mondal
Vs
The State of West Bengal & Others**

Mr. Atis Kumar Biswas,
Mr. Amit Singh ...for the Appellant.

Affidavit of Service filed in Court today, be kept
with the records.

Nobody appears for the respondents.

We do not propose to defer the hearing of this
matter since the order we propose to pass will not
prejudice anybody.

This is an appeal against a Judgment and Order
dated August 18, 2022, whereby the appellant's writ
petition being WPA 17998 of 2022 was dismissed by
the learned Single Judge.

The appellant had approached the learned
Single Judge with the grievance that not only the
private respondent has encroached on his land, the
private respondent has also constructed a building on
such encroached land without obtaining requisite
sanction from the concerned Panchayet.

His further grievance was that the
representation that he has made to the Panchayet has
not been considered.

The learned Judge noticed that a civil suit for partition is pending between the appellant and the private respondent. The learned Judge granted liberty to the appellant/writ petitioner to approach the concerned Civil Court regarding any grievance pertaining to alleged encroachment by the private respondent on the appellant's land.

Insofar as the issue of unauthorized construction is concerned, the learned Judge recorded the submission made on behalf of the private respondent that in view of the nature of the construction, under Section 23 of the West Bengal Panchayet Act, 1973, no previous sanction of the Panchayet is necessary.

The learned Judge further observed that sufficient particulars of the unauthorized construction have not been furnished. Hence, no relief was granted by the learned Judge on that count.

We have heard learned Counsel for the appellant and we have seen the annexures to the writ petition. We are of the view that ends of justice will be subserved if we direct the Panchayet to dispose of the appellant's representation at an early date.

Accordingly, we direct the Pradhan of the Tehatta Gram Panchayet, being the respondent no.9 herein, to take a reasoned decision on the appellant's representation, which was received by the Panchayet on July 22, 2022 (page 45 of the stay petition) in

accordance with law, within a period of six weeks from the date of receipt of a copy of this order along with a copy of the writ petition, after giving an opportunity of hearing to all concerned parties including the appellant and the private respondent herein or their authorized representatives. The parties will be permitted to file such documents before the respondent no.9 as they may be advised. The decision taken by the respondent no.9 shall be communicated to the parties within a week from the date of the decision. In the event, the respondent no.9 finds that there is merit in the appellant's case, he shall take appropriate action in accordance with law.

We have not gone into the merits of the appellant's case. It will be for the respondent no.9 to take an informed decision in accordance with law.

Since we have not called for affidavits, the allegations in the stay application are deemed not to be admitted by the respondents.

M.A.T. No.1547 of 2022 is, accordingly, disposed of along with IA CAN 1 of 2022.

Urgent photostat certified copy of this order, if applied for, be supplied expeditiously after compliance with all the necessary formalities.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)

