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29.11.2022
d.p.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A. 21899 of 2022

**Saibal Kumar Ghosh
-versus
Ranaghat Municipality & Ors.**

**Mr. Srijib Chakraborty,
Mr. Sunny Nandy,
Mr. Anand Jha.
...For the Petitioner.**

**Mr. Achintya Kumar Banerjee,
...For the Municipality.**

**Ms. Pompey Bose,
Mr. Abhijit Sarkar,
Mr. Raja Biswas.
...For the Respondent No.5.**

Affidavit-of-service filed in Court today is taken on record.

The petitioner prays for implementation of the order of demolition passed under Section 218 of the West Bengal Municipal Act, 1993 on 23rd March, 2019.

The person responsible for making construction has preferred an appeal before the appellate forum challenging the order of demolition.

It appears from the documents annexed to the writ petition that initially there was an ad interim stay of the order of demolition but thereafter the said stay stood vacated on 20th August, 2022.

The matter was fixed on 28th November, 2022 for hearing of injunction application.

Learned advocate appearing for the petitioner submits, upon instructions, that the matter stood adjourned on the said date as the appellant was not represented before the learned Court below.

The petitioner prays for implementation of the order of demolition as at present there is no order of stay of the said order of demolition.

Learned advocate appearing for the private respondent, who is suffering the order of demolition, submits that as the appeal is pending consideration, accordingly, the Court may not pass any order for demolition of the disputed structure at this stage.

It has been submitted that sanction was obtained for making construction in respect of the other three contiguous plots along with the present plot being L.R. Plot No. 4921.

As initially it was erroneously recorded that the L.R. Plot No. 4291 is a vested plot, accordingly, the said Plot number is not mentioned in the sanctioned plan.

Later on it transpired that the land is a free-hold land and accordingly, necessary steps has been and will be taken by the person responsible for regularization of the construction made thereon.

Learned advocate appearing for the Municipality submits that steps will be taken in the matter in terms of the direction passed by the learned Court.

It appears from the submissions made on behalf of all the parties and upon perusal of the materials on record that the order of demolition which the petitioner seeks implementation is under scrutiny before the appellate forum. Though the stay order which was granted has been vacated but the appeal is still pending.

In the event the construction is demolished prior to the appeal being heard and decided by the competent Court, the appeal will be rendered infructuous. It will be impossible for the parties to revert to the position of status quo ante if ultimately the appellate forum rejects the order of demolition.

For ends of justice, the learned appellate forum considering Misc. Appeal No. 1 of 2019 is directed to proceed with the appeal and endeavour to dispose of the same at the earliest, but positively within 30th June, 2023 without granting any unnecessary adjournments to either of the parties.

The learned appellate forum shall decide the matter on merits without being influenced by any observations made hereinabove.

The parties will be bound to comply the direction passed by the appellate forum in the pending appeal.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)