

12. 29.09.2022
Ct. No.6
Tanmoy

M.A.T. 1569 of 2022

**Ajit Bera & Ors.
-Versus-
The State of West Bengal & Ors.**

**With
IA No: C.A.N. 1 of 2022**

Mr. M.A. Samad, Adv.

...for the appellant.

Mr. Himadri Sekhar Chakraborty, Adv.,
Ms. Susnita Saha, Adv.

...for State.

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

In spite of service, nobody appears for the respondent no.7. However, in view of the order that we propose to pass, we do not deem it necessary to adjourn the matter.

This appeal is preferred against a judgment and order dated September 14, 2022, whereby the appellants' writ petition was dismissed.

The appellants approached the learned Single Judge with the complaint that the respondent no.7 has raised illegal construction and that too, on their land i.e. the land of the appellants. It was further contended that the construction was made without getting the land converted from 'Jal' to 'Bastu' and permission was not obtained from the concerned *Gram Panchayat*.

Learned Advocate appearing for the respondent no.7 produced before the learned Single Judge a document issued by the Office of the concerned Block Land and Land Reforms Officer (BL&LRO), which showed that conversion had been allowed with regard to the concerned plot being L.R. Plot No. 4755, corresponding to R.S. Plot No.4091 of Mouza Jiyakhali, from 'Jal' to 'Bastu'. A plan for construction was also produced before the learned Single Judge.

In view of the aforesaid, the learned Judge concluded that there was no merit in the allegations of the appellants/writ petitioners. As regards the contention of the appellants that the private respondent has encroached on their land, the learned Judge held that questions of right, title and interest of parties in respect of land cannot be adjudicated by the writ Court. Liberty was granted to the parties to approach the civil Court.

We find no apparent infirmity in the order under appeal. If the appellants contend that the private respondent has made construction without obtaining sanctioned plan from the concerned *Panchayat*, the appellants will be at liberty to approach the concerned *Panchayat* with a comprehensive representation. If the appellants do so, the *Panchayat* shall take a reasoned decision on such representation, in accordance with law, within a period of four (4) weeks from the date of the receipt of the representation, after giving an opportunity of

hearing to all concerned parties including the appellants and the private respondent. If the *Panchayat* finds that there is merit in the grievance of the appellants, appropriate remedial action will be taken by the *Panchayat* and the concerned Sub-Divisional Officer (SDO).

We make it clear that we have not gone into the merits of the case. If the *Panchayat* is approached by the appellants, it will take an informed decision, in accordance with law.

Since we have not called for affidavits, the allegations made in the stay petition shall be deemed not to have been admitted by the respondents.

The appeal being M.A.T. 1569 of 2022 and the connected application being IA No: C.A.N. 1 of 2022 are accordingly disposed of. However, there will be no order as to costs.

Let urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with all necessary formalities.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)