

D/L
Item No. 8
04.11.2022
KOLE

**MAT 1579 of 2022
With
IA No. CAN 1 of 2022**

**Debdas Ash & Anr.
-Vs.-
The State of West Bengal & Ors.**

Mr. Tapas Kumar Dey,

...for the appellants.

Mr. Mahadeb Ahmed,

...for the writ petitioner/respondent

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

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

Two writ petitions were disposed of by the impugned judgment and order dated September 5, 2022.

WPA 3516 of 2022 was filed by one Biswajit Banerjee for implementation of an order dated December 21, 2021, passed by the Sub-divisional Officer, Serempur, directing the present appellants to demolish a structure that these appellants had constructed on their land. The Sub-divisional Officer, pursuant to directions of this court, conducted an enquiry and came to a conclusion that the structure was put up without any sanctioned plan and hence required demolition.

The present appellants challenged the validity and/or legality of the demolition order passed by the Sub-divisional Officer by filing WPA 382 of 2022.

The learned Judge heard the parties at length and refused to interfere. The learned Judge directed the

authorities and the concerned Block Development Officer to act on the basis of the order passed by the Sub-divisional Officer, Serampur.

Being aggrieved, the writ petitioners in WPA 382 of 2022 have come up by way of this appeal. Learned Advocate for the appellants says that the demolition order of the Sub-divisional Officer, Serampur has been carried out. On October 28, 2022, the entire structure in question was demolished by the authorities.

In view of the aforesaid, this appeal has become of academic interest. The order under appeal has been implemented. Learned Advocate for the appellants says that the appellants have applied to the Jangipara Panchayat Samity, Hooghly for sanction of a building plan. Such application was made on August 26, 2021. Learned Advocate says that such application should be considered and disposed of in accordance with law on an early date.

This prayer is innocuous. Nobody can possibly have any objection to such prayer being allowed.

Accordingly, we dispose of the appeal, without interfering with the order under appeal, by directing the respondent no. 4, being the Block Development Officer, Jangipara Panchayat Samity to consider the application made by the present appellants for sanction of building plan, in accordance with law and applicable rules, if any, and take a reasoned decision thereon within a period of twelve weeks from the date of communication of this order, after giving an opportunity of hearing to the appellants or their authorized representative. The decision so taken will be communicated

to the appellants within two weeks from the date of the decision.

We have not gone into the merits of the case as to whether or not the appellants' application for sanction of the building plan should be allowed. The respondent no. 4 shall take an informed decision in that regard in accordance with law.

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

The appeal and the connected application are disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Apurba Sinha Ray, J.) (Arijit Banerjee, J.)