

**MAT 1600 of 2022
With
CAN 1 of 2022**

**Durgapur Public School & Anr.
Vs.
The State of West Bengal & Ors.**

Mr. Kamalesh Bhattacharya
Mr. Goutam Thakur

... .. for the appellants

Mr. Sayak Chakraborty

... .. for the State

This intra-court appeal is directed against the interlocutory order of the learned Single Judge dated 20th September, 2022 passed in WPA 19511 of 2022 whereby as an interim measure it is directed that any action taken by the respondents in the meantime shall abide by the final result of the writ petition.

Learned counsel appearing for the appellants has submitted that the respondents are intending to demolish the building without following the procedure which is prescribed under the West Bengal Public Land (Eviction of Unauthorized Occupants) Act, 1962. He has referred to the notice dated 22nd September, 2022 whereby the appellants have been intimated that the date of eviction process has been scheduled for 28th September, 2022. He has also pointed out that the appellants are running the school in the premises which is a recognized institution.

Learned counsel for the respondents has opposed the petition by submitting that due process as prescribed under the Act of 1962 is being followed and only the

boundary wall of the school is to be demolished for the purpose of the road project.

Having heard the learned counsel for the parties and on perusal of the record, it is noticed that the alleged demolition notice dated 22nd September, 2022 has been issued subsequent to the impugned order of the learned Single Judge dated 20th September, 2022. Learned Single Judge has passed the impugned order granting interim protection having regard to the facts which were available at the time of passing of the order.

Hence, the proper remedy available to the appellants is to approach the learned Single Judge and point out the subsequent development and the subsequent notice dated 22nd September, 2022 and pray for appropriate interim relief.

Learned counsel for the respondents has also stated that it could not be brought on record before the learned Single Judge that the action of demolition of boundary wall is to be taken for the purpose of road project, therefore, he is also permitted to do the needful to bring it on record before the learned Single Judge.

Having regard to the facts that the issue relates to the demolition of boundary wall and that the subsequent demolition notice dated 22nd September, 2022 was not brought to the notice of the learned Single Judge and also considering the facts that the writ petition is yet to be considered, we refrain from expressing any opinion on the merits of the matter. However, considering the

ensuing Puja festival and with a view to give some breathing time to the appellants to approach the learned Single Judge for appropriate order, we direct that the respondents will not give effect to the notice dated 22nd September, 2022 for a period of two weeks from today.

We make it clear that appellants will not be entitled to claim any equity on the basis of this order.

The appeal is accordingly dismissed.

Connected application is also dismissed.

(Prakash Shrivastava, C.J.)

(Rajarshi Bharadwaj, J.)