

**MAT 1791 of 2022
With
CAN 1 of 2022**

**Sujit Projects Private Limited
Vs.
The State of West Bengal & Ors.**

Mr. Kishore Dutta, Sr. Adv.
Mr. Vikas Baisya
Mr. Sourojit Dasgupta

... ... for the appellant

Mr. Amar Nath Sen
Mr. Malay Dhar
Mr. P.K. Ghosh
Mr. S. Naskar
Mr. A.B. Mahata

... ... for the respondent nos.4 & 5

Mr. Sonu Ojha
Mr. Rajiv Maity
Ms. K. Deb

... ... for the respondent nos.6 & 7

Mr. Aniruddha Mitra
Mr. B.M. Bagaria

... ... for the respondent nos.9 & 10

By way of this intra-court appeal respondent no.7 in the writ petition has challenged the interlocutory order of the learned Single Judge dated 20th October, 2022 passed in WPA 23248 of 2022.

The respondent nos.4 and 5 (writ petitioners) had approached the writ Court with the plea that the Debt Recovery Tribunal-I, Kolkata had passed the order of status quo dated 30th September, 2022 and the police authorities were not taking appropriate steps to comply with the said order. Hence, in the writ petition a direction has been sought to the Commissioner of Police and Officer-in-Charge of the concerned police station to take steps in terms of the written complaint and also to

restrain the respondent nos.6 to 9 in the writ petition from changing nature and character of the property in question.

Learned Single Judge while passing the impugned order has taken note of the order of status quo passed by the Debt Recovery Tribunal on 30th September, 2022 and has observed that the nature and character of the property cannot be changed till December 7, 2022 in the teeth of such order unless the order is varied or modified. Learned Single Judge has further directed that the concerned police authorities will taken necessary steps in the event any violation of the order of the status quo and has called for a detailed report from the O.C.

Submission of learned counsel for the appellant is that the appellant is the purchaser of the property in question from the respondent no.8, Anupam Dey and therefore he has a right to carry out day to day repairs in the property. He has further submitted that for executing the order of the status quo passed by the Debt Recovery Tribunal a writ cannot be maintained.

Learned counsel appearing for the respondent nos.4 and 5 (writ petitioners) has disputed that the appellant is the purchaser of the property in question from the auction purchaser (respondent no.8, Anupam Dey). He has submitted that the property in question was purchased by Ritu Singh and others as also Rajkumari Mittal and others from the auction purchaser (respondent

no.8, Anupam Dey). He has further submitted that the Debt Recovery Tribunal had passed the order of status quo, therefore to ensure that no damage is caused to the property the writ petition has been filed. He has also submitted that the photographs were produced before the learned Single Judge showing the extent of damage caused to the property.

Learned counsel for the appellant has objected to the submission of the learned counsel for the respondent nos.4 and 5 that the property in question was purchased by the someone other than the appellant.

The stand of the respondent nos.6 and 7 is neutral in the present dispute.

We have heard learned counsel for the parties and perused the record.

So far as the objection raised by the learned counsel for the appellant in respect of maintainability of the writ petition is concerned, a perusal of the impugned order of the learned Single Judge reveals that no such argument was advanced before the learned Single Judge. If the appellant feels that the writ petition is not maintainable then at the first instance he is required to raise such an objection before the Court where the petition is pending. If such an objection is raised by the appellant, then the same will be duly considered by the learned Single Judge in accordance with law.

So far as the second argument advanced by the learned counsel for the appellant about the right to carry out day to day repairs, etc., this right has been disputed by the respondent nos.4 and 5 by raising the plea that extensive damage has been caused to the property. Such a factual dispute cannot be gone into in this appeal. Even otherwise by the impugned order learned Single Judge has called for the report from the O.C. and has ensured maintenance of the status quo.

The impugned order is only an interlocutory order. The writ petition is yet to be decided by the learned Single Judge.

Hence, in the aforesaid circumstances, we are of the opinion that at this stage no interference in the order of the learned Single Judge under challenge is required. However, the parties will be at liberty to raise all legally permissible plea before the learned Single Judge in accordance with law.

The appeal is accordingly disposed of.

Connected application is also disposed of.

(Prakash Shrivastava, C.J.)

(Rajarshi Bharadwaj, J.)