

D/L
Item No. 14
20.12.2022
KOLE

**MAT 1953 of 2022
With
IA No. CAN 1 of 2022**

**Girija Prasad Choudhury & Anr.
-Vs.-
State of West Bengal & Ors.**

*Mr. Ayan Banerjee,
Mr. Suman Banerjee,*

...for the appellants.

*Mr. Jahar Lal Dey,
Mr. Abdus Salam,*

...for the State.

*Mr. Shataroop Purokayastha,
Mr. R. Mondal,
Ms. J. Bhattacharyya,*

...for the respondent.

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

This appeal is directed against a judgment and order dated November 23, 2022, whereby WPA 5139 of 2022 was disposed of. The appellants were the private respondents in the writ petition.

The learned Judge directed the concerned Panchayat to conduct enquiry as regards the complaint of unauthorized construction made by the writ petitioners and take the proceedings to its logical conclusion in terms of Section 23 of the West Bengal Panchayat Act.

The appellants were not present before the learned Judge on the day the writ petition was disposed of. The appellants say that they have sufficient cause for their absence. They say that material facts have been suppressed

by the writ petitioners including the fact that a civil suit concerning the subject matter of the writ petition is pending before the appropriate Civil Court.

We are not inclined to entertain this appeal since the appellants did not appear before the learned Single Judge when the order under appeal was passed. If the appellants have sufficient cause for their absence, they will be at liberty to approach the learned Single Judge with an appropriate application. If the learned Single Judge is approached with such application, we request the learned Judge to decide the same on merits.

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

The appeal and the connected application are accordingly 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.)