

APOT/238/2022
WITH
WPO/3279/2022
IA NO:GA/1/2022

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

MD. EHTESHAM UDDIN
Vs.
KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE ARIJIT BANERJEE
AND
The Hon'ble JUSTICE APURBA SINHA RAY
Date : 21ST DECEMBER, 2022.

Appearance:

Mr. Arindam Banerjee, Advocate
Mr. Arif Ali, Advocate
Mr. Sarban Bhattacharjee, Advocate
...for appellant/writ petitioner
Mr. Ranajit Chatterjee, Advocate
Ms. Piyali Sengupta, Advocate
...for KMC
Mr. Debjit Mukherjee, Advocate
Ms. Susmita Chatterjee, Advocate
...for State

The Court : 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.

This appeal is directed against an interim order dated December 19, 2022.

The appellant/writ petitioner had approached the learned Single Judge alleging unauthorised construction at premises no.10/H/6, also known as 10/6, Kasai Bustee 1st Lane, Borough-III, Ward No.29, P.S.-Narkeldanga, Kolkata-700 011.

Learned advocate representing the Kolkata Municipal Corporation submitted before the learned Single Judge that “*the petitioner may be a part of the extortion racket involved in the real estate market.*”

The learned Judge gave the following directions:

“The Executive Engineer (Civil)/Building Department, Kolkata Municipal Corporation is directed to cause an inspection to ascertain the allegations of the petitioner and file a report before this Court on the adjourned date.

Officer-in-Charge, Narkeldanga Police Station is directed to enquire about the antecedents of the petitioner to ascertain as to whether he is involved in any criminal activity or whether he has any track record of being involved in any extortion racket in the field of construction or real estate. The source of his income of the petitioner shall also be enquired and report shall be filed by the Officer-in-Charge, Narkeldanga Police Station before this Court on the adjourned date.”

The matter has been made returnable before the learned Judge on January 18, 2023.

Mr. Banerjee, learned advocate representing the appellant, says that the enquiry that has been ordered as regards the source of income of the writ petitioner violates his right to privacy. Such direction should be set aside. He submitted that his client is protected by the decision of the Hon'ble Supreme Court in the case of *Justice K. S. Puttaswamy (Retd.) & Anr. Vs. Union of India & Ors.*, reported at (2017) 10 SCC 1. Mr. Banerjee says that such direction is unconnected with the lis.

Mr. Chatterjee, learned advocate for the Corporation, says that the enquiry directed is very essential and the Corporation stands by the statement made before the learned Judge and will bring material on record to justify and substantiate such statement.

Mr. Mukherjee, learned advocate representing the State, says that he has received written instructions from the Officer-in-Charge, Narkeldanga Police Station that the appellant/writ petitioner is involved in several extortion cases. Criminal proceedings have been initiated against the appellant.

We have recorded the submissions made by learned advocates for the parties. However, we are not inclined to interfere since the order appealed against is only an interim order and the matter is pending before the learned Single Judge for final disposal. We would not like to go into the merits presently.

We request the learned Single Judge to decide the writ petition on merits, if necessary by calling for affidavits.

In the event the writ petitioner makes an application for modification/clarification/recall of the order under appeal, we request the learned Single Judge to decide such application on merits without being influenced by the fact that we have not interfered with the order.

Accordingly, the appeal and the connected application stand disposed of.

(ARIJIT BANERJEE, J.)

(APURBA SINHA RAY, J.)