

10. 05.04.2023
Court No.6
Tanmoy Ghosh

MAT 494 of 2023

**Raj Kumar Sashmal
-Versus-
State of West Bengal & Ors.**

**With
IA No: CAN/1/2023**

Mr. Kamalesh Bhattacharya, Adv.,
Mr. Aninda Bhattacharya, Adv.
...for the appellant.

Mr. Susanta Pal, Adv.,
Ms. Ananya Neogi, Adv.
...for the State.

Mr. Tanmay Mukherjee, Adv.,
Mr. Kamal Mishra, Adv.,
Ms. Rimpay Mukherjee, Adv.,
Mr. Pratap Sanfui, Adv.,
Mr. Subhadeep Maitra, Adv.
...for the respondent no.11.

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

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

A judgment and order dated March 1, 2023, passed in WPA 2948 of 2023, is the subject-matter of challenge in this appeal. The writ petition is still pending before the learned Single Judge and has been made returnable on April 11, 2023.

The appellant before us is the writ petitioner before the learned Single Judge. The appellant has challenged

an order dated January 11, 2023, passed by the Sub-Divisional Magistrate, Egra, pursuant to an order passed by a learned Single Judge on November 21, 2022, in WPA 22579 of 2022.

There were several rounds of litigations between the parties earlier. However, we are not inclined to discuss the earlier writ petitions and the orders as the same may not be necessary for disposal of this appeal.

The learned Single Judge, by the impugned order, has directed the Sub-Divisional Officer (SDO) as also the Block Development Officer (BDO) to file separate reports. The issue is whether or not the appellant/writ petitioner has made unauthorized construction without obtaining requisite sanction from the concerned *Panchayat*. Learned Advocate for the private respondent tells us that pursuant to the impugned order, hearing was conducted before the concerned SDO as also the concerned BDO and they have prepared necessary reports which they have disclosed by way of affidavits to be filed before the learned Single Judge on the returnable date. Copies of the affidavits have been made available to learned Advocate for the private respondent as also the appellant/writ petitioner.

We, therefore, find that the order under appeal has been worked out. The order has been implemented. Hence nothing remains in this appeal.

The learned Single Judge is in *seisin* of the entire matter. Learned Advocate for the appellant says that the original Resolution Book containing the Resolution dated December 29, 2016, the original letter dated November 20, 2017, the money receipt issued against payment of sanction fee by the appellant and other connected documents including the letter of the then *Pradhan* dated September 29, 2022, approving sanction in favour of the appellant/writ petitioner, be produced by the concerned *Panchayat*.

We have considered the prayer. We are of the opinion that since the learned Single Judge is in *seisin* of the matter, it will not be proper on our part to pass any such direction. The appellant/writ petitioner may make such prayer before the learned Single Judge and if Her Lordship deems it necessary, Her Lordship may direct production of such documents.

We have not gone into the merits of the case at all. The learned Single Judge is requested to decide the writ petition without being influenced by any observation in this order.

Since we have not called for affidavits, the allegations in the stay petition shall be deemed not to have been admitted by the respondents.

The appeal being MAT 494 of 2023 and the connected application being IA No: CAN/1/2023 are disposed of.

Let urgent photostat certified copy of this order, if applied for, be made available to the parties, upon compliance with all requisite formalities.

(Prasenjit Biswas, J.)

(Arijit Banerjee, J.)