

12. 21.06.2023
Court No.6
Tanmoy Ghosh

FMA 334 of 2023

**Padma Lochan Panigrahi
-Versus-
Rajib Lochan Panigrahi & Ors.**

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

Mr. Balai Lal Sahoo, Adv.,
Mr. Pradip Kumar Das, Adv.
...for the appellant.

Mr. Lalit Mohan Mahata, Ld. AGP,
Mr. Ziaul Haque, Adv.
...for the State.

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

In spite of service, apart from the State, the other parties are not represented.

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

The appellant was the respondent no.9 in WPA 1012 of 2023, which was filed by the respondent no.1 in this appeal.

The appellant herein and the respondent no.1 are brothers. The respondent no.1 herein approached the learned Single Judge with the grievance that the appellant herein has made unauthorized construction without obtaining requisite sanction from the concerned

Gram Panchayat. It was further complained that the land on which the appellant herein has constructed building, has not been converted from 'Danga' to 'Bastu'.

The learned Judge disposed of the writ petition by directing the concerned *Panchayat* to treat the writ petition as a representation of the writ petitioner and to take steps in accordance with law. The learned Judge laid down the procedure to be adopted by the *Panchayat* in coming to a decision as to whether or not the construction raised by the respondent no.9 in the writ petition (appellant herein) was unauthorized.

The respondent no.9 in the writ petition has come up by way of this appeal.

Mr. Sahoo, learned Advocate representing the appellant, in his usual fairness, points out that during the pendency of the appeal, the concerned *Panchayat* has passed an order dated May 23, 2023, directing demolition of the construction made by the appellant. Let a copy of such order be kept with the records.

In view of the aforesaid, this appeal has become infructuous. The order of the learned Single Judge has been carried out. If the appellant is aggrieved by the order of the concerned *Panchayat*, he will naturally be at liberty to challenge such order before the appropriate forum, in accordance with law.

We have not dilated on the merits of the case at all.

Mr. Sahoo says that the order dated May 23, 2023, issued by the *Pradhan* of the concerned *Panchayat*, requires the appellant to demolish the impugned construction within a month from the date of the order. He requests for a little more time to challenge the order before the appropriate forum.

Let the concerned *Panchayat* not take any coercive step till the end of this month.

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 FMA 334 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.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)